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# LABOUR LEGISLATION IN CANADA

AS EXISTING DECEMBER 31, 1915

[1st. Consolidated Edition]

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## CONTENTS.

|   | PAGE    |
|---|---------|
| INTRODUCTION . . . . .                                  | v-vii   |
| LABOUR LAWS EXISTING IN THE DOMINION OF CANADA IN 1915. |         |
| Dominion of Canada . . . . .                            | 1-113   |
| Prince Edward Island . . . . .                          | 114-124 |
| Nova Scotia . . . . .                                   | 125-213 |
| New Brunswick . . . . .                                 | 214-249 |
| Quebec . . . . .  | 250-313 |
| Ontario . . . . .                                       | 314-417 |
| Manitoba . . . . .                                      | 418-473 |
| Saskatchewan . . . . .                                  | 474-523 |
| Alberta . . . . .                                       | 524-593 |
| British Columbia . . . . .                              | 594-692 |
| Yukon Territory . . . . .                               | 693-724 |





# LABOUR LEGISLATION EXISTING IN CANADA IN 1915.

## INTRODUCTION.

The present volume, which is intended to form what may be termed the base of a series of reports on Labour Legislation in Canada, contains the text of the labour laws of the Dominion and provinces as existing at the end of 1915. It is proposed that the subject shall be kept up to date by annual reports, each with a cumulative index, and that at the end of given periods consolidations similar to the present shall appear in a single volume. The first annual report, that covering the legislation for 1916, appeared in 1917, and the report for the year 1917 was published during the summer of 1918.

The material for the present volume has been selected from the latest Revised Statutes, from the subsequent yearly volumes of statutes up to the end of 1915, and in the case of Quebec from the Civil Code and the Code of Civil Procedure. For Alberta it was necessary to use the Consolidated Ordinances of the Northwest Territories, 1898, and the annual volumes of Ordinances up to 1906, as no Revised Statutes of Alberta have been published since the establishment of that province in 1905. The laws are arranged according to the chapter numbers within each year. For convenience, however, amending acts have been consolidated with the statutes which they amend, except in one or two instances where the form of the amendment rendered consolidation impracticable. The words "with amendment" or "with amendments" immediately after the chapter number direct attention to the consolidation and a reference to the amending act follows each amended section.

The Quebec statutes differ in form somewhat from those of the other provinces. The Revised Statutes of 1909 contain articles numbered continuously from beginning to end, and most of the statutes enacted from 1909 to 1915 are in the form of additional articles to be inserted in the Revised Statutes even when the legislation relates to new subjects. These articles when reproduced in this volume have been assigned to their proper places in the Revised Statutes and a reference to the year of enactment has been placed after each new or amended article. In citing references throughout the report dates have been used rather than sessional numbers. Explanatory words or sentences inserted in the text by the Department are enclosed in square brackets.

Since the Labour Legislation reports for 1916 and 1917 are now available, statutes in existence at the end of 1915 but which were repealed or were replaced by new legislation during either of those years are not printed in this volume, but a note inserted in place of the statute in each instance refers the reader to the later legislation. A few sections which were inadvertently omitted from the 1916 report have been embodied in this volume. The forms and schedules annexed to various Acts have not been printed except in a few cases, such as the lists of factories within the scope of the Factories Acts, the schedules of industries and of industrial diseases under Workmen's Compensation Acts, and the prescribed forms for the reporting of accidents under these and other acts.

Certain labour laws authorize the enactment by Order in Council or by departmental head of rules and regulations, chiefly for administrative purposes. It is impossible to include the text of such regulations in the present report, but footnotes indicate when any regulations have been issued. The regulations in force under the Quebec Mining and Factory Acts, however, correspond so closely to certain sections in the Mining and Factory Acts of other provinces that it was thought advisable to print these particular regulations in full.

Several statutes which appear in this volume contain sections providing for the coming into force of the act on a day to be fixed by Order in Council. In those cases where the day has not been fixed the words "not yet in force" follow the chapter number of the statute, and if the act in question is lengthy, a footnote to the same effect is placed at the end of the chapter.

In selecting the material for the present report the term labour legislation has on the whole been given a broad interpretation. The report does not, however, include laws which fall under the head of social rather than labour legislation, nor those which deal with professional classes, such as teachers, surveyors, etc., or with the civil service. Local, private, and temporary laws have also been excluded.

The various Municipal Acts in force in the provinces contain sections empowering municipal councils to pass by-laws on a variety of subjects, among which are several of labour interest. These sections, however, are merely permissive, and, since in many cases no by-laws have been issued, only the clauses relating to Sunday labour and to early closing are reproduced. Among the other subjects enumerated in these sections are the regulation of explosives, the safety of buildings, fire prevention, the licensing and regulation of employment agencies, and the licensing of various classes of workmen. A reference list of the sections authorizing the passing of by-laws is given below:—

- Nova Scotia—Revised Statutes, 1900, c. 70, s. 134; c. 71, s. 263; 1905, c. 30, s. 5.
- New Brunswick—Consolidated Statutes, 1903, c. 166, s. 64; 1913, c. 36; 1912, c. 6, s. 95.
- Quebec—Revised Statutes, 1909, Articles 5638, 5640, 5680, 5681, 5934.
- Ontario—Revised Statutes, 1914, c. 192, secs. 399, 400, 406, 407, 412, 417, 418, 420, 422; 1914, c. 33, s. 16; 1915, c. 34, secs. 23, 31; 1916, c. 39, s. 7; 1917, c. 42, s. 20.
- Manitoba—Revised Statutes, 1913, c. 133, secs. 580, 581, 584, 612; 1913-14, c. 66, s. 10; 1915, c. 43, secs. 14, 17; 1916, c. 72, s. 13.
- Saskatchewan—1915, c. 16, s. 204; 1916, c. 19, s. 194; c. 20, s. 141; 1917, c. 14, s. 166.
- Alberta—Consolidated Ordinances of Northwest Territories, 1898, c. 70, s. 95; 1911-12, c. 2, s. 163; c. 3, s. 191; 1913, c. 5, s. 63.
- British Columbia—1914, c. 52, s. 54; 1915, c. 46, s. 91; 1917, c. 45, s. 17.
- Yukon—Consolidated Ordinances, 1914, c. 88, s. 33.

The laws on the subject of apprenticeship may be divided into two classes—general and special provisions. The general provisions are included in this report. The special provisions authorize the placing out of immigrant children by societies formed for that purpose, of neglected children by Children's Aid Societies, and of juvenile offenders by the managers of industrial schools, Children's Aid Societies, or judges. These provisions are omitted as being of social rather than of labour interest, but, for the convenience of those interested in the social aspect of the subject, a reference list is appended:—

#### Apprenticeship of Juvenile Delinquents.

- Canada—Revised Statutes, 1906, c. 148, secs. 65, 66, 90, 96, 97, 107, 108, 121, 122, 149, 158, 160, 161.
- New Brunswick—Consolidated Statutes, 1903, c. 102, s. 17; c. 103, s. 11.
- Quebec—Revised Statutes, 1909, Articles 3687, 3688, 3689, 4049, 4050-54, 4082-85.
- Ontario—Revised Statutes, 1914, c. 231, s. 23; c. 271, s. 20.
- Manitoba—Revised Statutes, 1913, c. 93, s. 20.
- Saskatchewan—1917, second session, c. 13, s. 26.
- British Columbia—Revised Statutes, 1911, c. 106, s. 12; c. 107, s. 97; 1912, c. 11, secs. 17, 18, 21.

#### Apprenticeship of Immigrant Children.

- Prince Edward Island—1910, c. 16.
- Nova Scotia—Revised Statutes, 1900, c. 118; 1905, c. 40; 1909, c. 37.
- New Brunswick—1905, c. 13.
- Quebec—Revised Statutes, 1909, Articles 3983-3999.
- Manitoba—Revised Statutes, 1913, c. 30, secs. 3, 6, 10, 14, 15.

## Apprenticeship of Wards of Children's Aid Societies.

Prince Edward Island—1910, c. 15, secs. 9, 10, 13, 18, 20, 22, 23.

Nova Scotia—1913, c. 27, secs. 10, 13, 14, 22.

Ontario—Revised Statutes, 1914, c. 231, secs. 14, 26.

Saskatchewan—1917, second session, c. 13, secs. 12, 24.

A third class of laws deserves mention here because, although not labour legislation in form, these laws have a bearing upon the question of workmen's compensation. These statutes, which are based on an English law of 1846, extend to the surviving dependents of a person whose death is caused by an injury the right which an injured person has under the common law regarding the recovery of damages from the person whose negligence caused the injury. These Fatal Accidents Acts are important in their application to cases arising from the death of workmen from injuries received in the course of their employment. Every province but Quebec has an Act of this type, and all the statutes are the same in principle although they vary slightly in detail. The Acts provide that the amount recoverable in an action shall be such as the jury think proportional to the loss resulting from the accident to the parties for whose benefit the action is brought. The list of beneficiaries in every instance includes the wife, husband, parent or child of the deceased, and all the laws but two interpret "parent" as including father, mother, grandfather, grandmother, stepfather and stepmother, and "child" as including son, daughter, grandson, granddaughter, stepson, and stepdaughter. The New Brunswick law excludes step-parents and stepchildren. The Ontario statute, on the other hand, includes these and also a person who has adopted a child or who stood *in loco parentis* to the deceased and an adopted child or person to whom the deceased stood *in loco parentis*. The time within which an action must be brought is fixed at twelve months in all the Acts. A list of these statutes follows:—

Prince Edward Island—1847, c. 19.

Nova Scotia—Revised Statutes, 1900, c. 178.

New Brunswick—Consolidated Statutes, 1903, c. 79.

Ontario—Revised Statutes, 1914, c. 151.

Manitoba—Revised Statutes, 1913, c. 36.

Saskatchewan—Revised Statutes, 1909, c. 135; 1917, second session, c. 43.

Alberta—Consolidated Ordinances of Northwest Territories, 1898, c. 48.

British Columbia—Revised Statutes, 1911, c. 82.

Yukon Territory—Consolidated Ordinances, 1914, c. 19.

11

## LABOUR LAWS OF THE DOMINION OF CANADA AS EXISTING DECEMBER 31, 1915.

(In setting out the text of the federal and provincial statutes precedence is given to the legislation of the Dominion, that of the provinces following, the provinces being arranged in geographical order, proceeding from East to West.)

### DOMINION OF CANADA.

#### REVISED STATUTES OF 1906.

##### Protection of Employees as Voters—Time to Vote.

Chapter 6 with amendment.—136A. Every employer shall on polling day give to every voter in his employ at least one additional hour for voting other than the noon hour, and shall make no deduction in the pay of such employees nor impose or exact any penalty from any employee by reason of absence during such hour.

(2) This section shall apply to railway companies and to the Government Railways and their employees, with the exception of employees engaged in the running of trains and to whom such time cannot be given without interfering with the manning of the trains. 1915, c. 14, s. 3.

269. Every one who, directly or indirectly, by himself or by any other person on his behalf, makes use of, or threatens to make use of, any force, violence, or restraint, or inflicts, or threatens the infliction, by himself, or by or through any other person, of any injury, damage, harm or loss, or in any manner practises intimidation upon or against any person, in order to induce or compel such person to vote for any candidate, or to refrain from voting, or on account of such person having voted for any candidate or refrained from voting at an election, or who, by abduction, duress, or any false or fraudulent pretense, device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of any voter, or thereby compels, or induces or prevails upon any voter either to vote for any candidate or to refrain from voting at an election, shall be deemed to have committed the offence of undue influence, and is guilty of an indictable offence, and shall, in addition to any penalty thereby incurred, forfeit the sum of two hundred dollars, to any person who sues therefor, with costs.

(2) It shall be deemed a false pretense within the meaning of this section to represent to a voter, directly or indirectly, that the ballot to be used, or the mode of voting at an election, is not secret.

##### Negligence of Employees on Government Canals.

Chapter 35.—26. Every one who is an officer or servant of, or a person employed by the Minister on any canal, and who wilfully or negligently violates any order or regulation of the Department, or any order in council, respecting the canal on which he is employed, and of which a copy has been delivered to him, or has been posted up or open to his inspection in some place where his work or duties, or any of them, are to be performed, if such violation causes injury to any property or to any person, or exposes any property or any person to the risk of injury, or renders such risks greater than it would have been but for such violation, although no actual injury occurs, is guilty of an indictable offence, and shall, according as the court before which the conviction is had considers the offence proved to be more or less grave, or the injury or risk of injury to person or property to be more or less great, be liable to a penalty not exceeding four hundred dollars, or to imprisonment for a term not exceeding five years, or to both penalty and imprisonment, in the discretion of the court.

27. If such violation does not cause injury to any property or person, or expose any, property or person to the risk of injury, or make such risk greater than it would have been but for such violation, the officer, servant or other person guilty thereof shall incur a penalty, not exceeding the amount of thirty days' pay and not less than fifteen days' pay of the offender from the Department, in the discretion of the justice of the peace before whom the conviction is had; and such penalty shall be recoverable, with costs, before any one justice of the peace having jurisdiction where the offence has been committed or where the offender is found.

**Government Railways—Definition of Terms.**

Chapter 36.—2. In this Act, unless the context otherwise requires:—

- (a) 'Minister' means the Minister of Railways and Canals;
- (b) 'Deputy' means the Deputy of the Minister of Railways and Canals;
- (c) 'Secretary' means the Secretary of the Department of Railways and Canals;
- (d) 'Department' means the Department of Railways and Canals;
- (e) 'Superintendent' means the superintendent of the Government railway or railways of which he has, under the Minister, the charge and direction;
- (f) 'Engineer' means any engineer or person permanently or temporarily employed by the Minister to perform such work as is ordinarily performed by a civil engineer;
- (k) 'Highway' means any public road, street, lane or other public way or communication;
- (l) 'Railway' means any railway, and all property and works connected therewith, under the management and direction of the Department.

**Government Railways—Application of Act.**

Chapter 36.—4. This Act applies to all railways which are vested in His Majesty, and which are under the control and management of the Minister.

**Government Railway Bridges, Tunnels, etc.**

Chapter 36.—17. The span of the arch of any bridge erected for carrying the railway over or across any highway, shall be constructed and continually maintained at an open and clear breadth and space, under such arch, of not less than twenty feet, and of a height from the surface of such highway to the centre of such arch of not less than twelve feet; and the descent under any such bridge shall not exceed one foot in twenty feet.

19. Every bridge or other erection or structure or tunnel through or under which any railway to which this Act applies passes, shall, at all times be so maintained as to admit of an open and clear headway of at least seven feet between the top of the highest freight cars used on the railway and the bottom of the lower beams, members or portions of that part of such bridge, erection, structure or tunnel which is over the railway.

(2) The Minister, before using higher freight cars than those which admit of such open and clear headway of at least seven feet, shall, after having first obtained the consent of the municipality or of the owners of such bridge or other erection, structure or tunnel, raise every such bridge or other erection, structure or tunnel, and the approaches thereto, if necessary, so as to admit of such open and clear headway of at least seven feet: Provided that this section shall not apply to any bridge, erection, structure or tunnel existing before the first day of March, one thousand eight hundred and eighty-seven, which is exempted by the Governor in Council.

20. Whenever a highway bridge or any other erection, or structure, or tunnel, is constructed over or on the line of a railway, or whenever it becomes necessary to reconstruct any highway bridge or other erection, or structure, or tunnel already built over or on the line of railway, or to make large repairs to the same, the lower beams, members or portions of the superstructure of any such tunnel, highway or overhead bridge, or of any other erection or structure over any railway, and the approaches thereto, shall be constructed or reconstructed at the cost of the Crown or of the municipality or other owner of the bridge, erection, structure, or tunnel, as the case may be, and shall at all times, be maintained at a sufficient height from the surface of the rails of the railway, to admit of an open and clear headway of at least seven feet between the top of the highest freight cars then used on the railway and the lower beams, members or portions of such bridge or other erection, or tunnel.

(2) After any such construction, reconstruction or large repairs, the Minister, before using higher freight cars than those used on the railway at the time of such construction, reconstruction, or large repairs, shall, after having first obtained the consent of the municipality, or of the owners of such highway bridge, or other erection or structure, or tunnel, raise the said tunnel or bridge, or other erection or structure, and the approaches thereto, if necessary, so as to admit, as aforesaid, of an open and clear headway of at least seven feet over the top of the highest freight cars, then about to be used on the railway.

**Safety Provisions—Liability of Engineer for Negligence.**

Chapter 36.—30. There shall be provided and used in and upon trains run for the conveyance of passengers, such apparatus and arrangements as best and most securely place and fix the seats or chairs in the cars or carriages, and as best afford good and sufficient means,—

(a) of immediate communication between the conductors and the engine drivers of such trains while the trains are in motion; and,

(b) of applying, by the power of the steam engine or otherwise, at the will of the engine driver or other person appointed to such duty, the brakes to the wheels of the locomotive or tender, or both, or of all or any of the cars or carriages composing the trains; and,

(c) of disconnecting the locomotive, tender and cars or carriages from each other by any such power or means.

36. Every locomotive engine shall be furnished with a bell of at least thirty pounds weight, and with a steam whistle.

37. The bell shall be rung or the whistle sounded at the distance of at least eighty rods from every place where the railway crosses any highway, and shall be kept ringing or be sounded, at short intervals, until the engine has crossed such highway.

(2) His Majesty shall be liable for all damages sustained by any person by reason of any neglect to comply with this provision.

(3) One-half of such damages shall be chargeable to and be deducted from any salary due to the engineer having charge of such engine, and neglecting to sound the whistle or ring the bell as aforesaid, or shall be recoverable from such engineer.

**Government Railway Employees to wear Badges.**

Chapter 36.—38. Every servant of the Minister employed on a passenger train, or at a station for passengers, shall wear, upon his hat or cap, a badge which shall indicate his office; and he shall not, without such badge, be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, or to interfere with any passenger or his baggage or property.

**Transportation of Explosives.**

[Chapter 36, sections 45 and 75, deals with the transportation of explosives.]

**Power of Governor in Council to make Regulations for Government Railways.**

Chapter 36.—49. The Governor in Council may, from time to time, make such regulations as he deems necessary,—

(a) for the management, proper use and protection of all or any of the Government railways, including station houses, yards and other property in connection therewith;

(b) for the ascertaining and collection of the tolls, dues and revenues thereon;

(c) to be observed by the conductors, engine drivers and other officers and servants of the Minister, and by all companies and persons using such railways;

(d) relating to the construction of the carriages and other vehicles to be used in the trains on such railways.

50. The Governor in Council, may, by such regulations,—

(a) Impose such fines, not exceeding in any one case four hundred dollars, for any violation of any such regulation, as he deems necessary for ensuring the observance of the same and the payment of the tolls and dues to be imposed as aforesaid; and,

(b) provide for the retention out of the salary of any officer, employee or servant of the Minister, of the amount of any forfeiture incurred by him for violation of any such regulation.

**Government Railways to be Public Works.**

Chapter 36.—55. All Government railways are and shall be public works of Canada.

**Liability for Damage arising from Negligence of Government Railway Employees.**

Chapter 36.—60. His Majesty shall not be relieved from liability by any notice, condition or declaration, in the event of any damage arising from any negligence, omission or default of any officer, employee or servant of the Minister; nor shall any officer, employee or servant be relieved from liability by any notice, condition or declaration, if the damage arises from his negligence or omission.

**Limitations of Actions against Government Railway Employees.**

Chapter 36.—63. No action shall be brought against any officer, employee or servant of the Minister for anything done by virtue of his office, service or employment, unless within three months after the act is committed, and upon one month's previous notice thereof in writing; and the action shall be tried in the county or judicial district where the cause of the action arose.

### Safety Provisions—Negligence of Government Railway Employees.

Chapter 36.—71. Every officer or agent of the Minister, and every conductor of a train, who directs or knowingly permits any baggage, freight, merchandise or lumber cars to be placed in rear of the passenger cars, is guilty of an indictable offence, and shall be punishable accordingly.

### Intoxication of Government Railway Employees.

Chapter 36.—72. Every person who is intoxicated, while he is in charge of a locomotive engine, or acting as the conductor of a car or train of cars, is guilty of an indictable offence.

### Contravention of Regulations by Government Railway Employees.

Chapter 36.—73. Every officer or servant of, and every person employed by the Minister on any railway under the control of the Minister, who wilfully or negligently violates any rule, order or regulation of the Department, or regulation of the Governor in Council, lawfully made or in force, respecting the railway on which he is employed, and of which a copy has been delivered to him, or has been posted up or open to his inspection in some place where his work or his duties, or any of them, are to be performed, is guilty of an indictable offence if such violation causes injury to any property or to any person, or exposes any property or any person to the risk of injury, or renders such risk greater than it would have been but for such violation, although no actual injury occurs.

(2) Such person shall, in the discretion of the court before which the conviction is had, and according as such court considers the offence proved to be more or less grave, or the injury or risk of injury to person or property to be more or less great, be punished by a fine not exceeding four hundred dollars, or by imprisonment not exceeding the term of five years, or by both fine and imprisonment.

74. If such violation does not cause injury to any property or person or expose any property or person to the risk of injury, or make such risk greater than it would have been but for such violation, the officer, servant or other person guilty thereof shall, in the discretion of the justice of the peace before whom the conviction is had, incur a penalty not exceeding the amount of thirty days' pay and not less than fifteen days' pay of the offender from the Department.

(2) Such penalty shall be recoverable, before any one justice of the peace having jurisdiction where the offence was committed, or where the offender is found.

### Railways—Definition of Terms.

Chapter 37.—2. In this Act, and in any Special Act as hereinafter defined, in so far as this Act applies, unless the context otherwise requires,—

(1) 'Board' means the Board of Railway Commissioners for Canada;

(2) 'by-law,' when referring to an act of the company, includes a resolution;

(4) 'company'

(a) means a railway company, and includes every such company and any person having authority to construct or operate a railway;

(11) 'highway' includes any public road, street, lane or other public way or communication;

(12) 'inspecting engineer' means an engineer who is directed by the Minister, or by the Board, to examine any railway or works, and includes two or more engineers, when two or more are so directed;

(17) 'Minister' means the Minister of Railways and Canals;

(21) 'railway' means any railway which the company has authority to construct or operate, and includes all branches, sidings, stations, depots, wharfs, rolling stock, equipment, stores, property real or personal and works connected therewith, and also any railway bridge, tunnel, or other structure which the company is authorized to construct;

(24) 'rolling stock' means and includes any locomotive, engine, motor car, tender, snow plough, flanger, and every description of car or of railway equipment designed for movement on its wheels, over or upon the rails or tracks of the company;

(28) 'Special Act' means any Act under which the company has authority to construct or operate a railway, or which is enacted with special reference to such railway, and includes

(a) all such Acts,

(b) with respect to the Grand Trunk Pacific Railway Company, the National Transcontinental Railway Act, and the Act in amendment thereof passed in the fourth year of His Majesty's reign, chapter twenty-four, intituled 'An Act to amend the National Transcontinental Railway Act.'

(32) 'train' includes any engine, locomotive or other rolling stock;



3. This Act shall, subject to the provisions thereof, be construed as incorporate with the Special Act, and, unless otherwise expressly provided in this Act, where the provisions of this Act, and of any special Act passed by the Parliament of Canada, relate to the same subject-matter, the provisions of the Special Act shall, in so far as is necessary to give effect to such Special Act, be taken to override the provisions of this Act.

4. If in any Special Act passed by the Parliament of Canada previously to the first day of February, one thousand nine hundred and four, it is enacted that any provision of the Railway Act, 1888, or any other general railway Act in force at the time of the passing of such Special Act, is excepted from incorporation therewith, or if the application of any such provision is, by such Special Act, extended, limited or qualified, the corresponding provision of this Act shall be taken to be excepted, extended, limited or qualified, in like manner.

### Railways—Application of Act.

Chapter 37 with amendment.—5. This Act shall, subject as herein provided, apply to all persons, companies and railways, other than Government railways, within the legislative authority of the Parliament of Canada.

5a.—The provisions of this Act shall apply to—

(a) any and all railway companies incorporated elsewhere than in Canada and owning, controlling, operating or running trains or rolling stock upon or over any line or lines of railway in Canada, either owned, controlled, leased or operated by such railway company or companies, whether in either case, such ownership, control, or operation is acquired by purchase, lease, agreement, control of stock or by any other means whatsoever;

(b) any and all railway companies operating or running trains from any point in the United States to any point in Canada. 1909, c. 32, s. 11.

6. Where any railway, the construction or operation of which is authorized by a Special Act passed by the legislature of any province, is declared, by any Act of the Parliament of Canada, to be a work for the general advantage of Canada, this Act shall apply to such railway, and to the company constructing or operating the same, to the exclusion of such of the provisions of the said Special Act as are inconsistent with this Act, and in lieu of any general railway Act of the province.

8. Every railway, steam or electric street railway or tramway, the construction or operation of which is authorized by Special Act of the legislature of any province, and which connects with or crosses or may hereafter connect with or cross any railway within the legislative authority of the Parliament of Canada, shall, although not declared by Parliament to be a work for the general advantage of Canada, be subject to the provisions of this Act relating to,—

(a) the connection or crossing of one railway or tramway with or by another, so far as concerns the aforesaid connection or crossing;

(b) the through traffic upon a railway or tramway and all matters appertaining thereto;

(c) criminal matters, including offences and penalties; and,

(d) navigable waters:

Provided that, in the case of railways owned by any provincial government, the provisions of this Act with respect to through traffic shall not apply without the consent of such government.

### Provincial Legislation regarding Sunday Trains.

Chapter 37.—9. Notwithstanding anything in this Act, or in any other Act, every railway, steam or electric street railway or tramway, situate wholly within one province of Canada, and declared by the Parliament of Canada to be either wholly or in part a work for the general advantage of Canada, and every person employed thereon, in respect of such employment, and every person, company, corporation or municipality owning, controlling or operating the same wholly or partly, in respect of such ownership, control or operation, shall be subject to any Act of the legislature of the province in which any such railway or tramway is situate which was in force on the tenth day of August, one thousand nine hundred and four, in so far as such Act prohibits or regulates work, business or labour upon the first day of the week, commonly called Sunday.

(2) Every such Act, in so far as it purports to prohibit, within the legislative authority of the province, work, business or labour upon the said first day of the week, is hereby ratified and confirmed and made as valid and effectual, for the purposes of this section, as if it had been duly enacted by the Parliament of Canada.

(3) The Governor in Council may, by proclamation, confirm, for the purposes of this section, any Act of the legislature of any province passed after the tenth day of August, one thousand nine hundred and four, in so far as such Act purports to prohibit

or regulate, within the legislative authority of the province, work, business or labour upon the said first day of the week; and such Act shall, to the extent aforesaid, be by force of such proclamation, ratified and confirmed and made as valid and effectual, for the purposes of this section, as if it had been enacted by the Parliament of Canada.

(4) Notwithstanding anything in this Act, or in any other Act, every railway, steam or electric street railway or tramway, wholly situate within the province, and which has been declared by the Parliament of Canada to be in whole or in part a work for the general advantage of Canada, and every person employed thereon, in respect of such employment, and every person, company, corporation or municipality, owning, controlling or operating the same wholly or partly, in respect of such ownership, control or operation, shall, from and after such proclamation, be subject to such Act in so far as it has been so confirmed.

(5) Nothing in this section shall apply to any railway or part of a railway,—

(a) which forms part of a continuous route or system operated between two or more provinces, or between any province and a foreign country, so as to interfere with or affect through traffic thereon; or,

(b) between any of the ports on the Great Lakes and such continuous route or system, so as to interfere with or affect through traffic thereon; or,

(c) which the Governor in Council by proclamation declares to be exempt from the provisions of this section.

#### Protection of Railway Employees—Power of Board to make Regulations.

Chapter 37.—30. The Board may make orders and regulations,—

(c) with respect to the method and means of passing from one car to another, either inside or overhead, and for the safety of railway employees while passing from one car to another;

(d) for the coupling of cars;

(e) requiring proper shelter to be provided for all railway employees when on duty;

(g) with respect to the rolling stock, apparatus, cattle-guards, appliances, signals, methods, devices, structures and works, to be used upon the railway, so as to provide means for the due protection of property, the employees of the company, and the public;

(h) with respect to any matter, act or thing which by this or the Special Act is sanctioned, required to be done, or prohibited; and,

(i) generally for carrying this Act into effect.

(2) Any such orders or regulations may be made to apply to any particular district, or to any railway, or section or portion thereof, and the Board may exempt any railway, or section or portion thereof, from the operation of any such order or regulation, for such time, or during such period, as the Board deems expedient.

(3) The Board may, by regulation, provide penalties, when not already provided in this Act, to which every company or person who offends against any regulation made under this section shall be liable: Provided that no such penalty shall exceed one hundred dollars.<sup>1</sup>

#### Publication.

31. Any rule, regulation, order or decision of the Board shall, when published by the Board, or by leave of the Board, for three weeks in "The Canada Gazette," and while the same remains in force, have the like effect as if enacted in this Act, and all courts shall take judicial notice thereof.

#### Change of Divisional Points—Compensation to Employees.

Chapter 37 with amendment.—163. The company shall not commence the construction of the railway, or any section or portion thereof, until the plan, profile and book of reference has been submitted to and sanctioned by the Board as hereinbefore provided, nor until such plan, profile and book of reference so sanctioned has been deposited with the Board, and duly certified copies thereof with the registrars of deeds, in accordance with the provisions of this Act.

(2) The company shall not, at any time, make any change, alteration or deviation in the railway, or any portion thereof, until the provisions of the last preceding section are fully complied with, or remove, close, or abandon any station or divisional point without leave of the Board; and where a change is made in the location of a divisional point the company shall compensate its employees as the Board deems proper for any financial loss caused to them by change of residence necessitated thereby. 1913, c. 44, s. 1.

<sup>1</sup> Under the authority of this section and of sections 264, 268 and 269, the Board of Railway Commissioners has issued a number of important regulations fixing safety-appliance standards, making provision for the protection of railway employees, regulating the inspection and testing of locomotive boilers, and governing the determination of visual acuity, colour perception, and hearing of railway employees.

### Telegraph Wires, etc., across Railways.

Chapter 37 with amendment.—246. No lines or wires for telegraphs, telephones, or the conveyance of light, heat, power or electricity, shall be erected, placed or maintained across the railway without leave of the Board.

(2) Upon any application for such leave, the applicant shall submit to the Board a plan and profile of the part of the railway proposed to be affected, showing the proposed location of such lines and wires and the works contemplated in connection therewith.

(3) The Board may grant such application and may order by whom, how, when, and on what terms and conditions, and under what supervision, such work shall be executed.

(4) Upon such order being made such lines and wires may be erected, placed and maintained across the railway subject to and in accordance with such order.

(5) An order of the Board shall not be required in the cases in which telephone, telegraph or electric light wires are erected across the railway with the consent of the company in accordance with any general regulations, plans or specifications adopted or approved by the Board for such purposes. 1910, c. 50, s. 4.

### Railway Bridges, Tunnels, etc.

Chapter 37.—256. Every bridge, tunnel or other erection or structure, over, through or under which any railway passes, shall be so constructed and maintained as to afford, at all times, an open and clear headway of at least seven feet between the top of the highest freight car used on the railway and the lowest beams, members, or portions of that part of such bridge, tunnel, erection or structure, which is directly over the space liable to be traversed by such car in passing thereunder.

(2) The Board may, if necessary, require any existing bridge, tunnel, or other erection or structure to be reconstructed or altered, within such time as it may order, so as to comply with the requirements mentioned in the last preceding subsection; and any such bridge, tunnel, or other erection or structure, when so reconstructed or altered shall thereafter be maintained accordingly.

(3) Except by leave of the Board the space between the rail level and such beams, members or portions of any such structure, constructed after the first day of February, one thousand nine hundred and four, shall in no case be less than twenty-two feet six inches.

(4) If, in any case, it is necessary to raise, reconstruct or alter any bridge, tunnel, erection or structure not owned by the company, the Board, upon application of the company, and upon notice to all parties interested, or without any application, may make such order, allowing or requiring such raising, reconstruction or alteration, and upon such terms and conditions as to the Board shall appear just and proper and in the public interest.

(5) The Board may exempt from the operation of this section any bridge, tunnel, erection or structure, over, through or under which no trains except such as are equipped with air brakes are run.

### Fair Wages for Railway Employees.

Chapter 37.—259. In every case in which the Parliament of Canada votes financial aid by way of subsidy or guarantee towards the cost of railway construction, all mechanics, labourers or other persons who perform labour in such construction shall be paid such wages as are generally accepted as current for competent workmen in the district in which the work is being performed; and if there is no current rate in such district, then a fair and reasonable rate.

(2) In the event of a dispute arising as to what is the current or a fair and reasonable rate, it shall be determined by the Minister, whose decision shall be final.

### Inspection of Railways.

Chapter 37.—262. Whenever any complaint is made to the Board, or the Board receives information, that any railway, or any portion thereof, is dangerous to the public using the same, from want of renewal or repair, or insufficient or erroneous construction, or from any other cause, or whenever circumstances arise which, in its opinion, render it expedient, the Board may direct an inspecting engineer to examine the railway, or any portion thereof.

(2) The Board may, upon the report of the inspecting engineer, order any repairs, renewal, reconstruction, alteration or new work, materials or equipment to be made, done, or furnished by the company upon, in addition to, or substitution for, any por-

tion of the railway, which may, from such report, appear to the Board necessary or proper, and may order that until such repairs, renewals, reconstruction, alteration, and work, materials or equipment are made, done and furnished to its satisfaction, no portion of the railway in respect of which such order is made, shall be used, or used otherwise than subject to such restrictions, conditions and terms as the Board may in such order impose.

(3) The Board may by such order condemn and thereby forbid further use of any rolling stock which, from such report, it may consider unfit to repair or use.

263. If in the opinion of any inspecting engineer, it is dangerous for trains to pass over any railway, or any portion thereof, until alterations, substitutions or repairs are made thereon, or that any of the rolling stock should be run or used, the said engineer may, by notice, in writing,—

(a) forthwith forbid the running of any train over such railway or portion of railway; or,

(b) require that the same be run only at such times under such conditions, and with such precautions, as he by such notice specifies; and,

(c) forbid the running or using of any such rolling stock.

(2) Such notice shall state the reasons for such opinion of the inspecting engineer, and distinctly point out the defects or the nature of the danger to be apprehended.

(3) The notice may be served upon the company owning, running, or using such railway or rolling stock, or upon any officer having the management or control of the running of trains upon the railway, or the management or control of the rolling stock.

(4) The inspecting engineer shall forthwith report such notice to the Board, which may either confirm, modify or disallow the act or order of such engineer.

(5). Notice of such confirmation, modification or disallowance, shall be duly given to the company.

#### Operation of Trains—Safety Appliances.

Chapter 37.—264. Every company shall provide and cause to be used on all trains modern and efficient apparatus, appliances and means,—

(a) to provide immediate communication between the conductor while in any car of any passenger train, and the engine driver;

(b) to check at will the speed of the train, and bring the same safely to a standstill, as expeditiously as possible, and, except under circumstances of sudden danger or emergency, without causing undue discomfort to passengers, if any, on the train; and,

(c) to securely couple and connect the cars composing the train, and to attach the engine to such train, with couplers which couple automatically by impact, and which can be uncoupled without the necessity of men going in between the ends of the cars.

(2) Such apparatus, appliances and means for the checking of speed or the stopping of any train shall include a power drive wheel brake and appliances for operating the train brake system upon the locomotive.

(3) There shall also be such a number of cars in every train equipped with power or train brakes that the engineer on the locomotive drawing such train can control its speed, or bring the train to a stop in the quickest and best manner possible, without requiring brakemen to use the common hand brake for that purpose.

(4) Upon all trains carrying passengers such system of brakes shall be continuous, instantaneous in action, and capable of being applied at will by the engine driver or any brakeman, and the brakes must be self-applying in the event of any failure in the continuity of their action.

(5) All box freight cars of the company shall, for the security of railway employees, be equipped with,—

(a) outside ladders, on two of the diagonally opposite ends and sides of each car, projecting below the frame of the car, with one step or rung of each ladder below the frame, the ladders being placed close to the ends and sides to which they are attached; and,

(b) hand grips placed anglewise over the ladders of each box car and so arranged as to assist persons in climbing on the roof by means of the ladders:

Provided that, if there is at any time any other improved side attachment which, in the opinion of the Board, is better calculated to promote the safety of the train hands, the Board may require any of such cars not already fitted with the side attachments by this section required, to be fitted with the said improved attachment.

(6) Every company shall adopt and use upon all its rolling stock such height of draw-bars as the Board determines, in accordance with any standard from time to time adopted by competent railway authorities.

(7) The Board may upon good cause shown, by general regulation, or in any particular case, from time to time grant delay for complying with the provisions of this section.

265. The Board may, subject to the requirements of the last preceding section, upon application, order that any apparatus or appliance specified in such order shall, when used upon the train in the manner and under circumstances in such order specified, be deemed sufficient compliance with the provisions of the said section: Provided that the Board shall not by such order allow any exception to or modification of the requirements of the said section.

266. The oil cups or other appliances used for oiling the valves of every locomotive in use upon any railway shall be such that no employee shall be required to go outside the cab of the locomotive, while the same is in motion, for the purpose of oiling such valves.

267. Every locomotive engine shall be equipped and maintained with a bell of at least thirty pounds weight and with a steam whistle.

#### Uniformity of Construction and Operation of Rolling Stock.

268. The Board shall endeavour to provide for uniformity in the construction of rolling stock to be used upon the railway, and for uniformity of rules for the operation and running of trains.

#### The Working of Trains.

269. The Board may make regulations,—

(a) designating the number of men to be employed upon trains;

(b) providing that coal shall be used on all locomotives instead of wood in any district; and,

(c) generally providing for the protection of property, and the protection, safety, accommodation and comfort of the public, and of the employees of the company, in the running and operating of trains by the company.

#### Railway Employees to wear Badges.

Chapter 37.—280. Every employee of the company employed in a passenger train or at a passenger station shall wear upon his hat or cap a badge which shall indicate his office, and he shall not, without such badge, be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, or to interfere with any passenger or his baggage or property.

#### Transportation of Explosives.

[Chapter 37, sections 286, 287, 410 and 411, deals with the transportation of explosives.]

#### Safety Provisions—Packing.

Chapter 37.—288. The spaces behind and in front of every railway frog or crossing, and between the fixed rails of every switch, where such spaces are less than four inches in width, shall be filled with packing up to the under side of the head of the rail.

(2) The spaces between any wing rail and any railway frog, and between any guard rail and the track rail alongside of it, shall be filled with packing at their splayed ends, so that the whole splay shall be so filled where the width of the space between the rails is less than four inches.

(3) Such packing shall not reach higher than to the underside of the head of the rail.

(4) Such packing shall consist of wood or metal, or some equally substantial and solid material, of not less than two inches in thickness, and, where by this section any space is required to be filled in on any railway, shall extend to within one and a half inch of the crown of the rails in use, shall be neatly fitted so as to come against the web of such rails, and shall be well and solidly fastened to the ties on which such rails are laid.

(5) The Board may, notwithstanding the requirements of this section, allow the filling and packing therein mentioned to be left out from the month of December to the month of April in each year, both months included, or between any such dates as the Board by regulation, or in any particular case, determines.

#### Accidents on Railways.

Chapter 37.—292. Every company shall, as soon as possible, and immediately after the head officers of the company have received information of the occurrence upon the railway belonging to such company, of any accident attended with personal injury to any person using the railway, or to any employee of the company, or whereby any

bridge, culvert, viaduct, or tunnel on or of the railway has been broken or so damaged as to be impassable or unfit for immediate use, give notice thereof, with full particulars, to the Board.

(2) The Board may by regulation declare the manner and form in which such information and notice shall be given and the class of accidents to which this section shall apply, and may declare any such information so given to be privileged.

293. The Board may appoint such person or persons as it thinks fit to inquire into all matters and things which it deems likely to cause or prevent accidents, and the causes of and the circumstances connected with any accident or casualty to life or property occurring on any railway, and into all particulars relating thereto.

(2) The person or persons so appointed shall report fully, in writing, to the Board, his or their doings and opinions on the matters respecting which he or they are appointed to inquire, and the Board may act upon such report and may order the company to suspend or dismiss any employee of the company whom it may deem to have been negligent or wilful in respect of any such accident.

### Railways—Actions for Damages.

Chapter 37.—306. All actions or suits for indemnity for any damages or injury sustained by reason of the construction or operation of the railway shall be commenced within one year next after the time when such supposed damage is sustained, or, if there is continuation of damage, within one year next after the doing or committing of such damage ceases, and not afterwards.

(2) In any such action or suit the defendants may plead the general issue, and may give this Act and the Special Act and the special matter in evidence at the trial, and may prove that the said damages or injury alleged were done in pursuance of and by the authority of this Act or of the Special Act.

(3) Nothing in this section shall apply to any action brought against the company upon any breach of contract, express or implied, for or relating to the carriage of any traffic, or to any action against the company for damages under the following provisions of this Act, respecting tolls.

(4) No inspection had under this Act, and nothing in this Act contained, and nothing done or ordered or omitted to be done or ordered, under or by virtue of the provisions of this Act, shall relieve, or be construed to relieve, any company of or from or in any wise diminish or affect, any liability or responsibility resting upon it, under the laws in force in the province in which such liability or responsibility arises, either towards His Majesty or towards any person, or the wife or husband, parent or child, executor or administrator, tutor or curator, heir or personal representative, of any person, for anything done or omitted to be done by such company, or for any wrongful act, neglect or default, misfeasance, malfeasance, or nonfeasance, of such company.

### Rules for Railways Employees.

Chapter 37.—307. The company may, subject to the provisions and restrictions in this and in the Special Act contained, make by-laws, rules or regulations respecting,—

(f) the travelling upon, or the using or working of the railway;

(g) the employment and conduct of the officers and employees of the company.

308. The company may, for the better enforcing of the observance of any such by-law, rule or regulation, thereby prescribe a penalty not exceeding forty dollars for any violation thereof.

309. All by-laws, rules and regulations, whether made by the directors or the company, shall be reduced to writing, be signed by the chairman or person presiding at the meeting at which they are adopted, have affixed thereto the common seal of the company, and be kept in the office of the company.

310. All such by-laws, rules and regulations, except such as relate to tolls and such as are of a private or domestic nature and do not affect the public generally, shall be submitted to the Governor in Council for approval.

(2) The Board shall make a report to the Governor in Council upon such by-laws, rules and regulations, and the Governor in Council may thereupon sanction such by-laws, rules and regulations or any of them, or any part thereof, and may, from time to time, rescind the sanction thereof, or of any part thereof.

(3) No such by-law, rule or regulation shall have any force or effect without such sanction.

311. Such by-laws, rules and regulations when so approved shall be binding upon, and shall be observed by all persons, and shall be sufficient to justify all persons acting thereunder.

312. A printed copy of so much of any by-law, rule or regulation, as affects any person, other than the shareholders, or the officers or employees of the company, shall

be openly affixed, and kept affixed, to a conspicuous part of every station belonging to the company, so as to give public notice thereof to the persons interested therein or affected thereby.

(2) A printed copy of so much of any by-law, rule or regulation as relates to the conduct of or affects the officers or employees of the company, shall be given to every officer and employee of the company thereby affected.

(3) In the province of Quebec every such notice, by-law, rule and regulation shall be published both in the English and French languages.

313. If the violation or non-observance of any by-law, rule or regulation, is attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, the company may summarily interfere, using reasonable force, if necessary, to prevent such violation, or to enforce observance, without prejudice to any penalty incurred in respect thereof.

### Returns of Railway Accidents.

Chapter 37 with amendment.—372. Every company shall annually, or more frequently if the Minister so requires, make to the Minister, under the oath of the president, secretary or superintendent of the company, a true and particular return of all accidents and casualties, whether to persons, or to animals or other property, which have occurred on the property of the company, or in connection with the operation thereof, setting forth,—

(a) the causes and natures of such accidents and casualties;

(b) the points at which such accidents and casualties occurred, and whether by night or by day; and,

(c) the full extent of such accidents and casualties and all the particulars thereof.

(2) Such returns shall be made for the period beginning from the date to which the then last yearly returns made by the company extend, or, if no such returns have been previously made, from the commencement of the operation of the railway, and ending with the last day of June in the then current year.

(3) A duplicate copy of such returns, dated, signed and attested in manner aforesaid, shall be forwarded by such company to the Minister within one month after the first day of August in each year.

(4) Every company shall also, when required by the Minister, return a true copy of the existing by-laws of the company, and of its rules and regulations for the management of the company and of its railway, or of such other undertaking or business of the company as it is authorized to carry on.

(5) The Minister may order and direct the form in which such returns shall be made up. 1911, c. 22, s. 14.

373. The Minister may order and direct any company to make up and deliver to the Minister, from time to time, in addition to the said periodical returns, returns of serious accidents occurring in the course of the public traffic upon the railway belonging to such company, whether attended with personal injury or not, in such form and manner as the Minister deems necessary and requires for his information with a view to public safety.

374. All returns made in pursuance of any of the provisions of the four sections of this Act last preceding shall be privileged communications, and shall not be evidence in any court whatsoever, except in any prosecution for,—

(a) default in making such returns in accordance with the requirements of this Act;

(b) perjury in making any oath required by this Act in connection with such returns;

(c) forgery of any such return; or,

(d) signing any such return knowing the same to be false.

### Railway Bridges, Tunnels, etc.

Chapter 37.—382. (a) If any bridge, tunnel or other erection or structure over, through or under which any railway passes is not so constructed, or reconstructed or altered, within such time as the Board may order, and thereafter so maintained, as to afford at all times an open and clear headway of at least seven feet between the top of the highest freight car used on the railway, and the lowest beams, members or portions of that part of such bridge, tunnel, erection or structure, which is directly over the space liable to be traversed by such car in passing thereunder; or,

(b) If, except by leave of the Board, the space between the rail level and such beams, members, or portions of any such structure, constructed after the first day of February, one thousand nine hundred and four, is in any case less than twenty-two feet six inches;



the company or owner so constructing shall incur a penalty not exceeding fifty dollars, for each day during which such company or owner wilfully refuses, neglects or omits to comply with the requirements of this Act, as to construction, reconstruction, alteration or maintenance, in this section mentioned: Provided that nothing in this section shall apply to any bridge, tunnel, erection or structure over, through or under which no trains except such as are equipped with air brakes are run, exempted by the Board from such requirements.

#### **Penalty for Non-Compliance with Orders of Railway Board.**

Chapter 37.—383. If any company refuses or neglects to comply with any order of the Board, made upon the report of the inspecting engineer, under the authority of this Act,—

(a) directing any repairs, renewals, reconstruction, alteration or new work, material or equipment to be made, done or furnished by the company upon, in addition to, or in substitution for any portion of the railway; or,

(b) directing that, until such repairs, renewals, reconstruction, alteration and work, materials or equipment are made, done and furnished to the satisfaction of the Board, no portion of the railway in respect of which such order is made shall be used, or used otherwise than subject to certain restrictions, conditions and terms by such order imposed; or,

(c) condemning and forbidding further use of any rolling stock therein specified; the company shall for each such refusal or neglect forfeit to His Majesty the sum of two thousand dollars.

(2) Any person wilfully and knowingly aiding or abetting any such disobedience or non-compliance shall be liable therefor, upon conviction, to a penalty of not less than twenty dollars, and not more than two hundred dollars.

(3) No prosecution for any penalty under this section shall be instituted without the authority of the Board first obtained.

#### **Penalty for operating Railway contrary to Inspector's Orders.**

Chapter 37.—385. If any company refuses or neglects to comply with any notice in writing of any inspecting engineer, given under the authority of this Act, and duly served upon the company, forbidding the running of any train over the railway of the company, or any portion thereof, or requiring that trains be run only at such times, under such conditions and with such precautions as specified in such notice, or forbidding the running or using of any rolling stock specified in the notice, such company shall forfeit to His Majesty the sum of two thousand dollars.

#### **Safety Appliances—Penalty for Failure to provide Proper Equipment.**

Chapter 37.—386. Every company required by this Act,—

(a) to provide and cause to be used on its trains modern and efficient apparatus, appliances and means, or any apparatus, appliances and means in this act specified, for the providing of communication between the conductor and the engine driver, or for the checking of the speed of any train or the bringing of the same expeditiously to a standstill, or for the secure coupling and connecting of the cars and the engine composing the train; or,

(b) to equip its box freight cars, for the security of its employees, with outside ladders and hand-grips; or, if the Board so requires, with any other improved side attachment required by the Board, or to adopt and use upon its rolling stock draw bars of a height determined by the Board; which fails to comply with any requirement of this Act in that behalf shall forfeit to His Majesty a sum not exceeding two hundred dollars for every day during which such default continues.

(2) Every such company shall also be liable to pay to all such persons as are injured by reason of the non-compliance with such requirements, or to their representatives, such damages as they are legally entitled to, notwithstanding any agreement to the contrary with regard to any such person, unless such agreement is authorized by the law of the province in which it is made, and by regulation of the Board.

#### **Provisions for Safety of Public—Penalties for Negligence of Railway Employees.**

Chapter 37.—387. Every officer or employee of any company who directs or knowingly permits any freight, merchandise or lumber car to be placed in any passenger train, in the rear of any passenger car in which any passenger is carried, is guilty of an indictable offence.

389. A company shall be liable to a penalty not exceeding four hundred dollars if, when the railway passes over any navigable water or canal by means of a draw or swing bridge which is subject to be opened for navigation, any train of the company



upon such railway is not brought to a full stop before coming on or crossing over such bridge, or if such train thereafter proceeds before a proper signal has been given for that purpose.

(2) This section shall not apply in the case of any bridge over which, by order of the Board under the authority of this Act, engines and trains are permitted to pass without stopping.

390. Every employee of the company who fails to comply with the rules of the company made for carrying into effect the provisions of this Act with regard to the stopping of trains before crossing any such draw or swing bridge, or for preventing such trains from proceeding over any such bridge before a proper signal has been given for that purpose, shall be liable to a penalty not exceeding four hundred dollars, or to six months' imprisonment, or to both.

391. The company shall incur a penalty of eight dollars if, when any train of the company is approaching a highway crossing at rail level,—

(a) the engine whistle is not sounded at least eighty rods before reaching such crossing; and,

(b) the bell is not rung continuously from the time of the sounding of the whistle until the engine has crossed the highway.

(2) The company shall also be liable for all damage sustained by any person by reason of any failure or neglect to so sound the whistle or ring the bell.

(3) This section shall not apply to trains approaching such crossings within the limits of cities or towns where municipal by-laws are in force prohibiting such sounding of the whistle and ringing of the bell.

392. Every employee of the company whose duty it is to sound the whistle or ring the bell at any such highway crossing, who neglects to perform such duty as required by this Act, shall for each offence incur a penalty of eight dollars.

394. Whenever at any highway crossing at rail level any engine, tender or car, or any part thereof, is wilfully allowed by the company, its officers, agents or employees to stand on any part of such highway for a longer period than five minutes at one time, or, in shunting, to obstruct public traffic for a longer period than five minutes at one time, every officer, agent or employee of the company, who has directly under or subject to his control, management or direction any such engine, tender or car, shall be liable on summary conviction to a penalty not exceeding fifty dollars, and the company shall also be liable to a like penalty: Provided that, if the offence is in the opinion of the court excusable, the prosecution for the penalty may be dismissed and the costs shall be in the discretion of the court.

#### Railway Bridges, Tunnels, etc.

Chapter 37.—396. Every company which shall erect, operate or maintain any bridge, approach, tunnel, viaduct, trestle, or any building, erection or structure, in violation of this Act, or of any order or regulation of the Board, shall for each offence incur a penalty of fifty dollars.

#### Inspection of Railways—Penalties for obstructing Inspecting Engineers.

Chapter 37.—405. Every operator or officer employed in any telegraph office of the company, or under the control of the company, who neglects or refuses to obey, without unnecessary delay, all orders of any inspecting engineer for the transmission of messages shall, for every such offence, be liable on summary conviction to a penalty of forty dollars.

406. Every person who wilfully obstructs any inspecting engineer in the execution of his duties shall be liable on summary conviction to a penalty not exceeding forty dollars, and, in default of payment thereof forthwith, or within such time as the convicting justice appoints, to imprisonment with or without hard labour for any term not exceeding three months.

#### Failure to give Notice of Railway Accidents.

Chapter 37.—412. Every company which wilfully or negligently omits to give immediate notice as by this Act required, with full particulars, to the Board of the occurrence, upon the railway belonging to such company, of any accident attended with serious personal injury to any person using the railway, or to any employee of the company, or whereby any bridge, culvert, viaduct or tunnel on or of the railway has been broken, or so damaged as to be impassable or unfit for immediate use, shall forfeit to His Majesty the sum of two hundred dollars for every day during which the omission to give such notice continues.

### Intoxication of Railway Employees.

Chapter 37.—413. Every conductor, locomotive engineer, train dispatcher, telegraph operator, station agent, switchman, signal man, bridge tender, or any other person who is intoxicated, or under the influence of liquor, while on duty, in charge of or in any employment having to do with the movement of trains upon any railway, is guilty of an offence, and shall be punished by fine, not exceeding four hundred dollars, or imprisonment, not exceeding five years, or both, in the discretion of the court before which the conviction is had, and according as such court considers the offence proved to be more or less grave as causing injury to any person or property, or as exposing or likely to expose any person or property to injury, although no actual injury occurs.

414. Every person who sells, gives or barter any spirituous or intoxicating liquor to or with any servant or employee of any company, while on duty, is liable on summary conviction to a penalty not exceeding fifty dollars, or to imprisonment, with or without hard labour, for a period not exceeding one month, or to both.

### Failure to make Returns of Railway Accidents.

Chapter 37.—420. Any company which fails or neglects to deliver to the Minister in the form ordered and directed by the Minister, or as by this Act required,—

(a) within one month after the first days of January and July respectively in each year, a true and particular return of all accidents and casualties, whether to life or property, which have occurred on the railway of the company during the half year next preceding the said dates respectively, setting forth the particulars and verified in manner as by this Act required; or,

(b) if required by the Minister, a true copy of the existing by-laws of the company and of its rules and regulations for the management of the company and of its railway, within fourteen days after having been so required by the Minister; or,

(c) any other or additional returns of serious accidents occurring in the course of the public traffic on the railway belonging to such company, if thereunto required with a view to public safety by the Minister, within fourteen days after the same have been so required;

shall forfeit to His Majesty the sum of one hundred dollars for every day during which the company so neglects to deliver any such return.

### Negligence of Employees on Public Works.

Chapter 39.—29. Every one who is an officer or servant of or a person employed by the Minister on any public work, and who wilfully or negligently violates any by-law, order or regulation of the Department, or any order in council lawfully made or in force respecting the public work on which he is employed, and of which a copy has been delivered to him, or has been posted up or open to his inspection in some place where his work or his duties, or any of them are to be performed, if such violation causes injury to any property or to any person, or exposes any property or any person to the risk of injury, or renders such risk greater than it would have been but for such violation, although no actual injury occurs, is guilty of an indictable offence, and shall, according as the court before which the conviction is had considers the offence proved to be more or less grave, or the injury or risk of injury to person or property to be more or less great, be liable to a penalty not exceeding four hundred dollars, or to imprisonment for a term not exceeding five years, or to both penalty and imprisonment in the discretion of the court.

30. If such violation does not cause injury to any property or person, or expose any property or person to the risk of injury, or make such risk greater than it would have been but for such violation, the officer, servant or other person guilty thereof shall incur a penalty, not exceeding the amount of thirty days' pay and not less than fifteen days' pay of the offender from the Department, in the discretion of the justice of the peace before whom the conviction is had; and such penalty shall be recoverable, with costs, before any one justice of the peace having jurisdiction where the offence has been committed or where the offender is found.

### Earnings of Married Women—Northwest Territories.

Chapter 62.—26. All the wages and personal earnings of a married woman, and any acquisitions therefrom, and all proceeds or profits derived from any occupation or trade which she carries on separately from her husband, or from any literary, artistic, or scientific skill, and all investments of such wages, earnings, moneys or property, shall be free from the debts or dispositions of the husband, and shall be held and enjoyed by such married woman, and disposed of without her husband's consent, as fully as if she were a *feme-sole*.

(2) No order for protection shall be necessary in respect of any such earnings or acquisitions.

(3) The possession, whether actual or constructive, of the husband of any personal property of any married woman, shall not render the same liable for his debts.

30. A married woman may maintain an action in her own name for the recovery of any wages, earnings, money or property, declared by this Act or which is hereafter declared to be her separate property, and shall have, in her own name, the same remedies, both civil and criminal, against all persons whomsoever for the protection and security of such wages, earnings, money and property, and of any chattels or other her separate property, for her own use, as if such wages, earnings, money, chattels and property belonged to her as an unmarried woman.

#### Earnings of Married Women—Yukon Territory.

Chapter 63.—30. All the wages and personal earnings of a married woman, and any acquisitions therefrom, and all proceeds or profits derived from any occupation or trade which she carries on separately from her husband, or from any literary, artistic or scientific skill, and all investments of such wages, earnings, moneys or property, shall be free from the debts or dispositions of the husband, and shall be held and enjoyed by such married woman, and disposed of without her husband's consent, as fully as if she were a *feme-sole*.

(2) No order for protection shall be necessary in respect of any such earnings or acquisitions.

(3) The possession, whether actual or constructive, of the husband of any personal property of any married woman, shall not render the same liable for his debts.

34. A married woman may maintain an action in her own name for the recovery of any wages, earnings, money or property, declared by this Act or which is hereafter declared to be her separate property, and shall have, in her own name, the same remedies, both civil and criminal, against all persons whomsoever for the protection and security of such wages, earnings, money and property, and of any chattels or other her separate property, for her own use, as if such wages, earnings, money, chattels and property belonged to her as an unmarried woman.

#### Protection of Mine Employees in Yukon Territory.

Chapter 64.—15. The mining inspector may summarily order any mining works to be so carried on as not to interfere with or endanger the safety of the public or any employees of such mining works or any public work or highway, or any mining property, mineral claim, bed-rock drain or bed-rock flume; and any abandoned works may, by his order, be either filled up or guarded to his satisfaction.

(2) Any person affected by an order of the mining inspector under this section may, within ten days, appeal therefrom to the gold commissioner.

#### Liability of Directors of Companies for Employees' Wages.

[Chapter 79, part one, empowers the Secretary of State to grant charters by letters patent to joint stock companies having objects or purposes to which the legislative authority of the Parliament of the Dominion extends, except the construction of railways, etc., the business of insurance, the business of a loan company and the business of banking and the issue of paper money. The liability of directors of companies incorporated under this part for the wages of employees is set forth in section 85 as follows:—]

85. The directors of the company shall be jointly and severally liable to the clerks, labourers, servants and apprentices thereof, for all debts not exceeding six months' wages due for service performed for the company whilst they are such directors respectively; but no director shall be liable to an action therefor, unless the company is sued therefor within one year after the debt becomes due, nor unless such director is sued therefor within one year from the time when he ceased to be such director, nor unless an execution against the company in respect of such debt is returned unsatisfied in whole or in part.

(2) The amount unsatisfied on such execution shall be the amount recoverable with costs from the directors.

[Part two of the same act applies to joint stock companies incorporated by special act of Parliament for purposes or objects to which the legislative authority of the Parliament of the Dominion extends, except companies for the construction or working of railways or for banking and the issue of paper money, or to any penny bank, or to any insurance company. The liability of directors incorporated under this part for the wages of employees is set forth in section 166 as follows:—]

166. The directors of the company shall be jointly and severally liable to the labourers, servants, and apprentices thereof, for all debts, not exceeding one year's wages, due for services performed for the company whilst they are such directors respectively; Provided that no director shall be liable to an action therefor, unless the company is sued therefor within one year after the debt became due, nor unless such director is sued therefor within one year from the time when he ceased to be such director, nor unless an execution against the company at the suit of such labourer, servant or apprentice is returned unsatisfied in whole or in part.

(2) The amount unsatisfied on such execution shall be the amount recoverable with costs from the directors.

### **Employment of Labour—Government Printing and Stationery Offices.**

Chapter 80.—17. The Superintendent of Printing may, with the approval of the King's Printer, employ such apprentices, journeymen, workmen, skilled hands or others as are necessary to perform the work of the establishment, and may remove the same.

(2) The provisions of the Civil Service Act shall not apply to the persons so employed by him.

18. All persons employed under the provisions of the last preceding section shall continue to be paid such rates of wages as they are now respectively receiving, and in accordance with weekly, fortnightly or monthly pay-rolls audited by the Accountant.

(2) No increase of any such rate of wages shall be made so as to raise the rate above that which is, at the time of such increase, paid for similar work in the cities of Montreal and Toronto.

27. The Superintendent of Stationery may, with the approval of the Minister, employ such persons skilled in the stationery business, apprentices, workmen and others as are necessary for the efficient working of the Stationery Office, and may remove the same.

(2) The provisions of the Civil Service Act shall not apply to the persons so employed by him.

28. All persons employed under the provisions of the last preceding section shall be paid in accordance with weekly, fortnightly or monthly pay-rolls audited by the Accountant.

31. The Minister may, from time to time, with the approval of the Governor in Council, make such regulations as he thinks fit respecting the discipline of the printing and stationery offices and of the persons employed therein, regulating their hours of attendance and rate of salary or wages, and the times and method of payment thereof, and such regulations shall be enforced by the King's Printer, the Superintendent of Printing and the Superintendent of Stationery; and by such regulations fines may be imposed upon such employees for non-attendance during working hours, or misconduct tending to prevent efficient work, or cause damage to Government property therein.

### **Employment of Immigrants through Immigration Societies—Repayment of Advances.**

Chapter 94.—16. The society may receive applications from persons desiring to obtain artisans, workmen, servants or labourers from the United Kingdom, or from any part of Europe, and may enter into any lawful contracts with such persons, including the obligation on the part of such persons, to employ the immigrants referred to on their arrival in Canada, in any manner, at any rate of wages, and for any period, under such penalty as damages for non-performance as are stipulated in such contract, and may receive in advance all or any part of the money to be expended by the society, or may take security for the repayment of all or any part thereof to the society, by instalments or in one sum, as is agreed upon.

17. The secretary-treasurer shall forthwith transmit every such application, with the requisite information and details, to the immigration agent of the district, with the amount the society has undertaken to advance towards defraying the expenses to be incurred in complying with the application, in paying or partly paying the cost of the ocean passage and other necessary travelling expenses of the emigrants from their home in Europe to the place in Canada where they are required.

18. The immigration agent shall forthwith transmit every such application and the money received by reason thereof, to the proper immigration agent or sub-agent of Canada, in the United Kingdom or elsewhere, who shall thereupon, take the necessary steps for procuring and forwarding to the proper place in Canada, such immigrants as are stated in the application; and the immigration agent shall, from time to time, furnish the Minister with such information and details respecting such applications as the Minister requires.

## Payment of Advances.

19. If it is the intention of the society, or of the applicant, that the whole or part of the money advanced towards defraying the expenses of immigration, shall be repaid by the immigrant, either in one sum or by instalments, the immigration agent or sub-agent of Canada in Europe who makes the arrangements for the passage of the intending emigrant to Canada, shall take from such emigrant an instrument in writing binding him to repay such money to the society in Canada in one sum or by instalments, at certain periods, and with interest or without interest, according to the instruction given by the secretary-treasurer to the district immigration agent and communicated through the Minister to the immigration agent or sub-agent in Europe, and he shall witness the execution of such instrument.

20. If any sum of money has been advanced to the emigrant for like purposes, by any society, or institution or individual in the United Kingdom, such sum may, with the consent of such society, institution or individual, be included in the amount for which such instrument is given, and may be recovered by the Canadian society aforesaid, and being recovered, shall be paid over without charge to the society, institution or individual by whom it was advanced, and the agent or sub-agent of immigration who witnesses the execution of the instrument shall give notice of the amount mentioned in the instrument to such society, institution or individual and to the Canadian society.

21. Any emigrant who might make such instrument as aforesaid, may, in like manner, execute an instrument, witnessed as above provided, binding himself or herself, in consideration of the sum advanced by the society therein named, to accept employment of the kind therein stated from any named person in the immigration district in which the society is formed, or with any person in such district whom the society designates to the immigrant on his arrival in such district, at a rate of wages to be named in the instrument, and for a term to be also therein named, and to serve such person faithfully in such employment during such term, and allow such person to deduct from his wages, at a period or periods to be designated in such instrument, such sum or sums as are also therein designated, and to pay the same to the society, on account of any money due by the immigrant to it.

22. Such instrument may be enforced by the society accordingly, by civil suit in any court of competent jurisdiction against the immigrant; and any refusal or neglect on the part of the immigrant to perform any of the other obligations undertaken by him in such instrument, shall be an offence cognizable before any one justice of the peace, and punishable on summary conviction by a penalty not exceeding twenty dollars and costs, and by imprisonment until such penalty and costs are paid, and the penalty, if paid, shall belong to the society, and be paid over to it by the convicting justice; but the payment of such penalty shall not prevent or affect any civil remedy of the society under such instrument.

## Chinese Labour—Regulation of Immigration.

-Chapter 95 with amendment.—1. This Act may be cited as the Chinese Immigration Act.

## Interpretation.

2. In and for the purposes of this Act, unless the context otherwise requires,—

(a) 'Chief Controller' means the chief officer who is charged, under the direction of the Minister to whom is assigned the administration of this Act, with the duty of carrying the provisions of this Act into effect and who shall have authority over officers of Customs and others appointed for the purpose or charged with the duty of assisting in carrying out the provisions of this Act;

(b) 'controller' means any Customs or other officer at any seaport or frontier Customs Port duly appointed as such and charged with the duty of assisting in carrying the provisions of this Act into effect;

(c) 'master' or 'conductor' means any person in command of or in charge of any vessel or vehicle;

(d) 'Chinese immigrant' means any person of Chinese origin (including any person whose father was of Chinese origin) entering Canada and not entitled to the privilege of exemption provided for by this Act;

(e) 'vessel' means any sea-going craft of any kind or description capable of carrying passengers;

(f) 'tonnage' means the gross tonnage according to the measurement fixed by the Merchant Shipping Acts of the Parliament of the United Kingdom;

(g) 'vehicle' means any ferryboat, boat, railway car, cart, wagon, carriage, sleigh or other conveyance whatsoever, however, propelled or drawn;

(h) 'Minister' means the Minister of Trade and Commerce, or the member of His Majesty's Privy Council of Canada, charged with the administration of this Act, 1907-8, c. 14, s. 1.

3. Any woman of Chinese origin who is the wife of a person who is not of Chinese origin shall for the purpose of this Act be deemed to be of the same nationality as her husband, and the children of the said wife and husband shall be deemed to be of the same nationality as the father.

4. 'Merchant' as used in this Act, shall not include any merchant's clerk or other employee, mechanic, huckster, pedlar or person engaged in taking, drying or otherwise preserving fish for home consumption or exportation.

5. Except as otherwise required by the Quarantine Act, the landing of a person of Chinese origin from a vessel, wherever referred to in this Act, shall not be held to apply to the landing of such person on the wharf and the placing of him in a proper building, where he may remain until the provisions of this Act have been complied with and the controller has given his authority for his departure therefrom, or to the temporary landing of any Chinese sailor for the purpose of assisting in the lading or unlading of the vessel to which he belongs, or for the purpose of his transfer to another vessel, and such person or sailor, while in such building or while so employed or waiting such transfer, shall, for the purposes of this Act, be held to be on board the vessel by which he arrived.

#### Administration.

6. The Governor in Council may,—

- (a) appoint one or more persons to carry the provisions of this Act into effect;
- (b) assign any duty in connection therewith to any officer or person in the employ of the Government of Canada;
- (c) define and prescribe the duties of such officer or person;
- (d) fix the salary or remuneration to be allowed to such officer or person;
- (e) engage and pay interpreters skilled in English and Chinese languages, at salaries aggregating not more than three thousand dollars a year;
- (f) make regulations for the carrying out of this Act.

#### Tax and Exemptions.

7. Every person of Chinese origin, irrespective of allegiance, shall pay into the Consolidated Revenue Fund of Canada, on entering Canada, at the port or place of entry, a tax of five hundred dollars, except the following persons who shall be exempt from such payment, that is to say:—

(a) The members of the diplomatic corps, or other government representatives, their suites and their servants, and consuls and consular agents;

(b) The children born in Canada of parents of Chinese origin and who have left Canada for educational or other purposes, on substantiating their identity to the satisfaction of the controller at the port or place where they seek to enter on their return.

(c) (1) Merchants, their wives and minor children;

(2) The wives and minor children of clergymen;

(3) Tourists;

(4) Men of science;

(5) (Subject to such regulations as may from time to time be made by the Governor in Council) duly certified teachers;

who shall substantiate their status to the satisfaction of the controller, subject to the approval of the Minister, or who are bearers of certificates of identity, or other similar documents issued by the Government or by a recognized official or representative of the government whose subjects they are, specifying their occupation and their object in coming into Canada. 1907-8, c. 14, s. 2.

(2) Every such certificate or other document shall be in the English or French language, and shall be examined and endorsed (*visé*) by a British consul or chargé d'affaires or other accredited representative of His Majesty, at the place where it is granted, or at the port or place of departure.

(3) A student of Chinese origin who upon first entering Canada has substantiated his status as such to the satisfaction of the controller, subject to the approval of the Minister, and who is the bearer of a certificate of identity, or other similar document issued by the Government or a recognized official or representative of the Government whose subject he is, and who at that time satisfies the controller that he is entering Canada for the purpose of securing a higher education in one of the recognized universities, or in some other educational institution approved by the Governor in Council for the purpose of this section, and who afterwards furnishes satisfactory proof that he has been a bona fide student in such university or educational institution for a period of one year shall be entitled to a refund of the tax paid by him upon his entry into Canada. 1907-8, c. 14, s. 3.

(4) Notwithstanding anything in this Act, and subject to such regulations as are made for the purpose by the Governor in Council, any Chinese immigrant, whose destination is a place in Canada other than the port or place at which he enters Canada, may pass through to his destination and pay the tax hereinbefore provided for only upon his reaching his destination. 1907-8, c. 14, s. 4.

8. The controller shall deliver to each Chinese immigrant who has been permitted to land or enter, and in respect of whom the tax has been paid as hereinbefore provided, a certificate containing a description of such individual, the date of his arrival, the name of the port of his landing and an acknowledgment that the tax has been duly paid; and such certificate shall be prima facie evidence that the person presenting it has complied with the requirements of this Act; but such certificate may be contested by His Majesty or by any officer charged with the duty of carrying this Act into effect, if there is reason to doubt the validity or authenticity thereof, or of any statement therein contained; and such contestation shall be heard and determined in a summary manner by any judge of a superior court of any province of Canada where such certificate is produced.

#### Number of Immigrants Limited.

9. No vessel carrying Chinese immigrants to any port in Canada shall carry more than one such immigrant for every fifty tons of its tonnage.

10. No Chinese immigrant shall be allowed to land in or enter Canada coastwise or overland arriving in transit from any port or place in America from any vessel entering at such port or place, in excess of the number which would have been allowed to land from such vessel had it come direct to Canada.

#### The Landing of Chinese Immigrants.

11. No master of any vessel carrying Chinese immigrants shall land any person of Chinese origin, or permit any to land from such vessel, until a permit so to do, stating that the provisions of this Act have been complied with, has been granted to the master of such vessel by the controller.

12. No controller at any port shall grant a permit allowing Chinese immigrants to land until the quarantine officer has granted a bill of health, and has certified, after due examination, that no leprosy or infectious, contagious, loathsome or dangerous disease exists on board such vessel; and no permit to land shall be granted to any Chinese immigrant who is suffering from leprosy or from any infectious, contagious, loathsome or dangerous disease.

13. Every conductor or other person in charge of any railway train or car bringing Chinese immigrants into Canada shall be personally liable to His Majesty for the payment of the tax of five hundred dollars imposed by this Act in respect of any immigrant brought by or on such railway train or car, and shall, unless such persons are in transit through Canada, pay or cause to be paid to the controller the total amount of tax payable by Chinese immigrants so arriving by such railway train or car, and he shall not allow any such immigrants to disembark from such train or car until after such tax has been paid.

14. Every conductor or other person in charge of any railway train or car bringing Chinese immigrants into Canada shall, immediately on his arrival, deliver to the controller or other officer at the port or place of arrival a report containing a complete and accurate list of all persons of Chinese origin arriving by or being on board of the railway train or car of which he is in charge, and showing their names in full, the country and place of their birth, their occupation and last place of domicile; and he shall not allow any such immigrant to disembark from such train or car until after such report has been made.

15. Every master of any vessel bringing Chinese immigrants to any port or place in Canada shall be personally liable to His Majesty for the payment of the tax imposed by this Act in respect of any such immigrant carried by such vessel, and shall deliver to the controller, immediately on his arrival in port and before any of his Chinese crew or passengers disembark, a complete and accurate list of his crew and such passengers, showing their names in full, the country and place of their birth, and the occupation and last place of domicile of each such immigrant passengers.

#### Registration Upon Entry.

16. Every Chinese immigrant who enters Canada otherwise than by disembarking from any vessel or vehicle, shall forthwith make a statement and declaration of his entry to the controller or other proper officer at the nearest or most convenient port or place, and shall forthwith pay to such controller or officer the tax of five hundred dollars imposed by this Act; and, if the statement and declaration is made to an officer other than a controller authorized to keep a register, such officer shall report the fact



and transmit the tax to the Chief Controller or to the nearest controller so authorized, and the controller shall make a record thereof in his register and issue the proper certificate of such registration in conformity with the provisions of this Act.

17. The Chief Controller, and such controllers as are by him authorized so to do, shall each keep a register of all persons to whom certificates of entry have been granted.

#### Prohibited Immigrants.

18. No controller or other officer charged with the duty of assisting in carrying the provisions of this Act into effect shall grant a permit allowing to land from any vessel, nor shall any conductor or other person in charge of any vehicle bring into Canada, either as an immigrant or as an exempt, or as in transit, any person of Chinese origin who is,—

- (a) a pauper or likely to become a public charge;
  - (b) an idiot or insane;
  - (c) suffering from any loathsome, infectious or contagious disease;
  - (d) a prostitute or living on the prostitution of others.
- (2) All such persons are prohibited from entering Canada.

#### Chinese in Transit.

19. Persons of Chinese origin may pass through Canada in transit, from one port or place out of Canada to another port or place out of Canada, without payment of the tax of five hundred dollars imposed by this Act: Provided that such passage is made in accordance with, and under such regulations as are made for the purpose by the Governor in Council.

#### Re-Entry.

20. Every person of Chinese origin who wishes to leave Canada, with the declared intention of returning thereto, shall give written notice of such intention to the controller at the port or place whence he proposes to sail or depart, in which notice shall be stated the foreign port or place which such person wishes to visit, and the route he intends taking both going and returning, and such notice shall be accompanied by a fee of one dollar.

(2) The controller shall thereupon enter in a register to be kept for the purpose, the name, residence, occupation and description of the said person, and such other information regarding him as is deemed necessary under such regulations as are made for the purpose.

21. The person so registered shall be entitled on his return, if within twelve months of such registration, and on proof of his identity to the satisfaction of the controller, as to which the decision of the controller shall be final, to free entry as an exempt or to receive from the controller the amount of the tax, if any, paid by him on his return; but if he does not return to Canada within twelve months from the date of such registration, he shall, if returning after that date, be subject to the tax of five hundred dollars imposed by this Act in the same manner as in the case of a first arrival.

#### Penalties and Forfeitures.

22. The owner of any vessel carrying Chinese immigrants to any port in Canada shall incur a penalty of two hundred dollars for each Chinese immigrant therein carried in excess of one for every fifty tons of such vessel's tonnage.

23. The master of any vessel carrying Chinese immigrants shall incur a penalty of five hundred dollars if he lands or permits to land in Canada from such vessel any person of Chinese origin without the permit therefor required by this Act.

24. Every master or conductor of any vessel or vehicle who lands or allows to be landed off or from any vessel or vehicle any Chinese immigrant before the tax payable under this Act has been duly paid, or who wilfully makes any false statement respecting the number of persons on board his vessel or vehicle, shall, in addition to the amount of the tax payable under the foregoing provisions of this Act, be liable to a penalty not exceeding one thousand dollars for every such offence, and, in default of payment, to imprisonment for a term not exceeding twelve months; and such vessel or vehicle shall be forfeited to His Majesty, and shall be seized by an officer charged with the duty of carrying this Act into effect, and dealt with accordingly.

25. If any person of Chinese origin who is,—

- (a) a pauper or likely to become a public charge;
- (b) an idiot or insane;
- (c) suffering from any loathsome, infectious or contagious disease; or,
- (d) a prostitute or living on the prostitution of others;

enters Canada, he or she shall be liable to imprisonment for a term not exceeding six months, and shall in addition be liable to deportation, and the master, conductor or other person who knowingly lands or brings or assists or permits to land in Canada, any such persons of Chinese origin, shall also be liable to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months.



26. If any railway or other transportation company, having undertaken to transport through Canada any person of Chinese origin in transit, fails to comply with any regulations of the Governor in Council in that behalf, such company shall be subject to a penalty not exceeding five hundred dollars.

27. Every person of Chinese origin who,—

(a) lands or attempts to land in Canada without payment of the tax payable under this Act; or—

(b) wilfully evades or attempts to evade any of the provisions of this Act as respects the payment of the tax by personating any other individual; or—

(c) wilfully makes use of or attempts to make use of any forged or fraudulent certificate or of a certificate issued to any other person for any purpose connected with this Act; is guilty of an indictable offence, and liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding five hundred dollars, or to both, and shall also be liable to deportation.

(2) Every person who wilfully aids and abets any such person of Chinese origin in any evasion or attempt at evasion of any of the provisions of this Act, is guilty of an indictable offence and liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding five hundred dollars or to both. 1907-8, c. 14, s. 5.

27a. In any case where a person of Chinese origin is liable to deportation under the provisions of this Act, such person may upon the order of the Minister be apprehended without further warrant by any immigration agent or other government officer, and may, by force if necessary, be compelled to return to or be taken on board a vessel or railway car and to leave Canada.

(2) Every immigrant deported under this section shall be carried, by the same transportation company or companies which brought him into Canada, to the port from which he came to Canada, without receiving the usual payment for such carriage.

(3) In case he was brought into Canada by a railway company such company shall similarly convey him or secure his conveyance from the municipality or locality whence he is to be deported to the country whence he was brought.

(4) Every owner or master of a vessel and every railway company or person who refuses to take any such person on board such vessel or car shall incur a penalty not exceeding five hundred dollars for each offence. Provided, however, that if the owner, master or crew of the vessel, or the officers and employees of the railway company, have not in any way aided or been parties to the violation of the law for which such person of Chinese origin is being deported, they shall not be obliged to convey such person unless the company is paid the reasonable passage money or fare for the transportation of such person. 1907-8, c. 14, s. 6.

28. Every person who takes part in the organization of any sort of court or tribunal composed of Chinese persons, for the hearing and determination of any offence committed by a Chinese person, or in carrying on any such organization or who takes part in any of its proceedings, or who gives evidence before any such court or tribunal, or assists in carrying into effect any decision, decree, or order of any such court or tribunal, is guilty of an indictable offence and liable to imprisonment for any term not exceeding twelve months, or to a fine not exceeding five hundred dollars, or to both; but nothing in this section shall be construed to prevent Chinese persons from submitting any differences or disputes to arbitration, if such submission is not contrary to the laws in force in the province in which such submission is made.

29. Every person who molests, persecutes or hinders any officer or person appointed to carry the provisions of this Act into effect is guilty of an indictable offence, and liable to imprisonment for a term not exceeding twelve months, or to a fine not exceeding five hundred dollars, or to both.

30. Every person who violates any provisions of this Act for which no special punishment is herein provided, is guilty of an indictable offence, and liable to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding twelve months.

#### Procedure.

31. All suits or actions for the recovery of taxes or penalties under this Act, and all prosecutions for contraventions of this Act which are not herein declared to be indictable offences, shall be tried before one or more justices of the peace, or before the recorder, police magistrate or stipendary magistrate having jurisdiction where the cause of action arose or where the offence was committed.

#### Appropriation of Revenues.

32. All taxes, pecuniary penalties, and revenues from other sources under this Act shall be paid into and form part of the Consolidated Revenue Fund of Canada; but, subject to such conditions and regulations as are prescribed by order of the Governor in Council, one-half part of the net proceeds of all such taxes paid by Chinese immigrants on entering Canada, shall, at the end of every fiscal year, be paid out of such fund to the province wherein they were collected.

**Industrial Disputes—Arbitration and Conciliation.**

Chapter 96.—1. This Act may be cited as the Conciliation and Labour Act.

**Interpretation.**

2. In this Act, unless the context otherwise requires,—

(a) 'Minister' means the member of His Majesty's Council for Canada to whom, for the time being, the Governor in Council may assign the carrying out of the provisions of this Act;

(b) 'railway' means any railway whether operated by steam, electricity or other motive power, and whether under the jurisdiction of the Parliament of Canada or of the legislature of any province;

(c) 'railway employer' means any company or government owning or operating wholly or to a lesser extent any railway operated by steam, electricity or other motive power, and whether under the jurisdiction of the Parliament of Canada or of the legislature of any province;

(d) 'railway employees' means persons engaged to perform any work, or service in respect of any railway whether operated by steam, electricity or other motive power, and whether under the jurisdiction of the Parliament of Canada or of the legislature of any province;

(e) 'difference' means any dispute, disagreement or dissension which in the opinion of the Minister may have caused or may cause a lockout or strike on a railway or which has interfered or may interfere with the proper and efficient transportation of mails, passengers or freight, or the safety of persons employed upon any car or train;

(f) 'committee' means the committee of conciliation, mediation and investigation established under the provisions of this Act;

(g) 'board' means any board of arbitrators established under the provisions of this Act;

(h) 'conciliation board' means any body constituted for the purpose of settling disputes between employers other than any railway employer and workmen by conciliation or arbitration, or any association or body authorized by an agreement in writing made between employers other than railway employers and workmen to deal with such disputes;

(i) 'conciliator' means any person or persons appointed by the Minister to mediate between an employer of labour and his workmen;

(j) 'lieutenant governor in council' means the Lieutenant Governor in Council of the province of Quebec, of Nova Scotia, of New Brunswick, or of Prince Edward Island.

**Trade Disputes.**

3. Any conciliation board may apply to the Minister for registration.

(2) The application must be accompanied by copies of the constitution, by-laws and regulations of the conciliation board, with such other information as the Minister may reasonably require.

4. The Minister shall keep a register of conciliation boards, and enter therein with respect to each registered conciliation board, its name and principal office, and such other particulars as he thinks expedient; and any registered conciliation board shall be entitled to have its name removed from the register on sending to the Minister a written application to that effect.

(2) Every registered conciliation board shall furnish such returns, reports of its proceedings, and other documents as the Minister may reasonably require.

5. The Minister may, on being satisfied that a registered conciliation board has ceased to exist or to act, remove its name from the register.

6. Where a dispute exists or is apprehended between an employer or any class of employers and workmen, or between different classes of workmen, the Minister may, if he thinks fit, exercise all or any of the following powers, namely:—

(a) Inquire into the causes and circumstances of the dispute;

(b) Take such steps as to him seem expedient, for the purpose of enabling the parties to the dispute to meet together, by themselves or their representatives, under the presidency of a chairman mutually agreed upon or nominated by him, or by some other person or body, with a view to the amicable settlement of the dispute;

(c) On the application of employers or workmen interested, and after taking into consideration the existence and adequacy of means available for conciliation in the district or trade and the circumstances of the case, appoint a conciliator; and,

(d) On the application of both parties to the dispute, appoint an arbitrator or arbitrators.

(2) The conciliator shall inquire into the causes and circumstances of the dispute, by communication with the parties, and otherwise shall endeavour to bring about a settlement of the dispute, and shall report the proceedings to the Minister.

(3) If a settlement of the dispute is effected either by conciliation or by arbitration, a memorandum of the terms thereof shall be drawn up and signed by the parties or their representatives, and a copy thereof shall be delivered to and kept by the Minister.

7. It shall be the duty of the conciliator to promote conditions favourable to a settlement, by endeavouring to allay distrust, to remove causes of friction, to promote good feeling, to restore confidence, and to encourage the parties to come together and themselves effect a settlement, and also to promote agreements between employers and employees with a view to the submission of disputes to conciliation or arbitration before resorting to strikes or lockouts.

8. The conciliator or conciliation board may, when deemed advisable, invite others to assist them in the work of conciliation.

9. If, before a settlement is effected, and while the dispute is under the consideration of a conciliator or conciliation board, such conciliator or conciliation board is of opinion that some misunderstanding or disagreement appears to exist between the parties as to the causes or circumstances of the dispute, and, with a view to the removal of such misunderstanding or disagreement, desires an inquiry under oath into such causes and circumstances, and, in writing signed by such conciliator or the members of the conciliation board, as the case may be, communicates to the Minister such desire for inquiry, and if the parties to the dispute or their representatives in writing consent thereto, then, on his recommendation, the Governor in Council may appoint such conciliator or members of the conciliation board, or some other person or persons, a commissioner or commissioners, as the case may be, under the provisions of the Inquiries Act to conduct such inquiry, and, for that purpose, may confer upon him or them the powers which under the said Act may be conferred upon commissioners.

10. Proceedings before any conciliation board or arbitrators shall be conducted in accordance with the regulations of such conciliation board, or arbitrators, as the case may be, or as is agreed upon by the parties to the dispute.

11. If it appears to the Minister that in any district or trade adequate means do not exist for having disputes submitted to a conciliation board for the district or trade, he may appoint any person or persons to inquire into the conditions of the district or trade, and to confer with the employers and employed, and, if he thinks fit, with any local authority or body, as to the expediency of establishing a conciliation board for such district or trade.

#### Statistics.

12. With a view to the dissemination of accurate statistical and other information relating to the conditions of labour, the Minister shall establish and have charge of a department of labour, which shall collect, digest, and publish in suitable form statistical and other information relating to the conditions of labour, shall institute and conduct inquiries into important industrial questions upon which adequate information may not at present be available, and issue at least once in every month a publication to be known as the 'Labour Gazette,' which shall contain information regarding conditions of the labour market and kindred subjects, and shall be distributed or procurable in accordance with terms and conditions in that behalf prescribed by the Minister.

#### Railway Disputes.

13. Whenever a difference exists between any railway employer and railway employees, and it appears to the Minister that the parties thereto are unable satisfactorily to adjust the same, and that by reason of such difference remaining unadjusted a railway lockout or strike has been or is likely to be caused, or the regular and safe transportation of mails, passengers or freight has been or may be interrupted, or the safety of any person employed on a railway train or car has been or is likely to be endangered, the Minister may, either on the application of any party to the difference, or on the application of the corporation of any municipality directly affected by the difference, or of his own motion, cause inquiry to be made into the same and the cause thereof, and, for that purpose, may, under his hand and seal of office, establish a committee of conciliation, mediation and investigation to be composed of three persons to be named, one by the railway employer, and one by the railway employees, parties to the difference, and the third by the two so named, or by the parties to the difference in case they can agree.

(2) The Minister shall in writing notify each party to name a member of the committee stating in such notice a time, not being being later than five days after the receipt of such notice, within which this is to be done.

(3) If either party within such time or any extension thereof that the Minister, on cause shown, may grant, refuses or fails to name a member of the committee, the Minister or the lieutenant governor in council, as the case may be, as hereinafter

provided, may appoint one in the place of the party so refusing or in default, and if the members of the committee so chosen fail to elect a third member, the Minister, or the Lieutenant governor in council, as the case may be, may make such selection.

14. It shall be the duty of the committee to endeavour by conciliation and mediation to assist in bringing about an amicable settlement of the difference to the satisfaction of both parties, and to report its proceedings to the Minister.

15. In case the conciliation committee is unable to effect an amicable settlement by mediation the Minister may refer the difference to arbitration.

(2) In such case a board of arbitrators shall be established by the Minister under his hand and seal of office, and shall consist of,—

(a) if acceptable to both parties, the committee; or,

(b) in case of objection by either party to its representative on the committee, or to the chairman of the committee, new representatives in place of the member or members of the committee objected to, appointed in like manner as the original members of the committee, and of such of the committee as against whom no objection has been so made.

16. If any member of such committee or board shall die, refuse, neglect or become incapable to act, a successor shall be appointed in like manner as is hereinbefore provided in respect of the original member of the committee or board, and the appointing authority shall endeavour to appoint only such person as shall not be reasonably objected to by either party.

(2) Before such appointment the name of the person proposed to be appointed shall be submitted to both parties to the difference, and there shall be afforded to each of them an opportunity, within such time as the Minister may fix, of making known to the appointing authority whether such proposed appointee is objected to.

17. In the event of the establishment of a committee of conciliation, mediation and investigation, or of a board of arbitrators to deal with any difference between the government of Canada, in respect of the Intercolonial Railway and the Prince Edward Island Railway, and any of its employees, the power to appoint conciliators or arbitrators which otherwise, in accordance with the foregoing provisions, might be exercisable by the Minister, shall be exercisable by the Lieutenant Governor in Council whom the Minister shall for that purpose in each case of conciliation or arbitration in writing name.

18. The third member of the said committee or board shall be the chairman.

19. In case of arbitration pursuant to the provision hereinbefore contained, the findings and recommendations of the majority of the arbitrators shall be those of the board.

(2) In case of the absence of any one arbitrator from a meeting of the board, the other two arbitrators shall not proceed unless it is shown that the third arbitrator has been notified of the meeting in ample time to admit of his attendance.

20. Forthwith after the appointment of the board the chairman shall promptly convene the same, and the board shall, in such manner as it thinks advisable make thorough, careful and expeditious inquiry into all the facts and circumstances connected with the difference, and the cause thereof, and shall consider what would be reasonable and proper to be done by both or either of the parties with a view to put an end to the difference, and to prevent its recurrence, and shall, with all reasonable speed, make to the Minister a written report setting forth the various proceedings and steps taken by the board for the purpose of fully and correctly ascertaining all the facts and circumstances, and also setting forth said facts and circumstances, and its findings thereon, including the cause of the difference, and the board's recommendations, with a view to its removal, and the prevention of its recurrence.

21. The Minister shall forthwith cause the report to be filed in the office of the Department of Labour, and a copy thereof to be sent free of charge to each party to the difference, and to any municipal corporation as aforesaid, and to the representative of any newspaper published in Canada who may apply therefor.

(2) Any other person shall be entitled to a copy on payment of the actual cost thereof.

22. For the information of Parliament and the public the report shall without delay be published in the Labour Gazette, and be included in the annual report of the said department to the Governor General.

23. For the purpose of such inquiry, the board shall have all the power of summoning before it any witnesses, and of requiring them to give evidence on oath, or on solemn affirmation, if they are persons entitled to affirm in civil matters, and produce such documents and things as the board deems requisite to the full investigation of the matters into which it is inquiring, and shall have the same powers to enforce the attendance of witnesses, and to compel them to give evidence as is vested in any court of record in civil cases; but no such witness shall be compelled to answer any question, by his answer to which he might render himself liable to a criminal prosecution.

24. On the application of any of the parties, or on its own motion, the board may issue summonses to such persons as the board may think necessary to give evidence in the case.

(2) Any witnesses summoned by the board shall be entitled to free transportation over any railway en route when proceeding to the place of meeting of the board, and thereafter returning to his home, and the board shall furnish to such witness a proper certificate evidencing his right to such free transportation.

25. The summons shall be in such form as the minister shall prescribe, and may require such person to produce before the board any books, papers, or other documents in his possession or under his control, in any way relating to the proceedings.

26. All books, papers, and other documents, produced before the board, whether voluntarily or in pursuance to summons, may be inspected by the board, and also by such of the parties as the board allows; but the information obtained therefrom shall not be made public, and such parts of the books, papers, and documents as, in the opinion of the board, do not relate to the matter at issue, may be sealed up.

27. The Department of Labour shall,—

(a) pay to each member of a committee or board his actual travelling expenses, and also to each of them, other than the chairman, ten dollars per day for each day on which he shall attend a meeting of the committee or board, or be engaged in travelling from or to his home, being in Canada, for the purpose of attending or after having attended a meeting of the committee or board;

(b) pay to the chairman such sum as the Governor in Council deems reasonable; and,

(c) at its expense, provide the committee or board with a stenographer, secretary and any other clerical assistance that to the Minister may appear necessary for the efficient carrying out of the provisions of this Act.

28. The report of the committee and the report of the board shall be signed by such of the members as concur therein, and may also be signed by a dissenting member.

29. No counsel or solicitor shall be entitled to appear before the board except with the consent of all parties to the difference, and notwithstanding such consent, the board may, if it deems it advisable, decline to allow counsel or solicitors to appear before it.

(2) The parties to the difference may appear in person or by agents.

30. No court of the Dominion of Canada or of any province or territory shall have or possess any power or jurisdiction to recognize or enforce or to receive in evidence any report of any board of arbitrators or of any committee of conciliation, or any testimony or proceedings before either such board or committee as against any party or person, or for any purpose whatsoever, except in case of prosecution for perjury.

31. Where the difference, which is being inquired into, affects a class of employees, it shall not be necessary for them all to take part in the inquiry, but the class may be represented by a limited number chosen by a majority or by agents other than counsel or solicitors.

32. If, in any proceedings before the board, any person wilfully insults any member of the board, or wilfully interrupts the proceedings, or without good cause refuses to give evidence, or is guilty in any other manner of any unlawful contempt in the face of the board, it shall be lawful for any member of the board or constable to take the person offending into custody and remove him from the precincts of the board, and retain him in custody until the rising of the board.

33. It shall be in the discretion of the board to conduct its proceedings in public or in private.

#### Regulations.

34. The Minister may from time to time make, alter and amend regulations, as to the time within which any thing hereby authorized shall be done, and also as to any other matter or thing which appears to him necessary or advisable for the effectual working of the several provisions of this Act.

#### Report.

35. An annual report with respect to the matters transacted by the Minister under this Act shall be made by him to the Governor General, and shall be laid before Parliament within the first fifteen days of each session thereof.

#### Expenses.

36. The expenses incurred in the carrying out of this Act shall be defrayed out of the money provided for the purpose by Parliament.

#### Alien Labour Immigration—Contract Labour.

Chapter 97.—1. This Act may be cited as the Alien Labour Act.

2. It shall be unlawful for any person, company, partnership or corporation, in any manner to prepay the transportation or in any way to assist, encourage or solicit the importation or immigration of any alien or foreigner into Canada, under contract or

agreement, parole or special, express or implied, made previous to the importation or immigration of such alien or foreigner, to perform labour or service of any kind in Canada.

3. For every violation of any of the provisions of the last preceding section, the person, partnership, company or corporation violating it by knowingly assisting, encouraging or soliciting the immigration or importation of any alien or foreigner into Canada to perform labour or service of any kind under contract or agreement, expressed or implied, parole or special, with such alien or foreigner, previous to such alien or foreigner becoming a resident in or a citizen of Canada, shall forfeit and pay a sum not exceeding one thousand dollars, and not less than fifty dollars.

4. The sum so forfeited may, with the written consent of any judge of the court in which the action is intended to be brought, be sued for and recovered as a debt by any person who first brings his action therefor in any court of competent jurisdiction in which debts of like amount are now recovered.

5. Such sum may also, with the written consent, to be obtained ex parte, of the Attorney General of the province in which the prosecution is had, or of a judge of a superior or county court, be recovered upon summary conviction before any judge of a county court, being a justice of the peace or any judge of the sessions of superior or county court, being a justice of the peace or any judge of the sessions of the peace, recorder, police magistrate, or stipendiary magistrate, or any functionary, tribunal or person invested by the proper legislative authority with power to do alone such acts as are usually required to be done by two or more justices of the peace, and, when recovered, shall be paid to the Minister of Finance.

6. Separate proceedings may be instituted for each alien or foreigner who is a party to such contract or agreement.

7. All contracts or agreements, express or implied, parole or special, made by and between any person, company, partnership or corporation and any alien or foreigner, to perform labour or service, or having reference to the performance of labour or service by any person in Canada, previous to the immigration or importation into Canada of the person whose labour or service is contracted for, shall be void and of no effect.

8. The master of any vessel who knowingly brings into Canada on such vessel and lands or permits to be landed, from any foreign port or place, any alien, labourer, mechanic or artisan who, previous to embarkation on such vessel, had entered into contract or agreement, parole or special, express or implied, to perform labour or service in Canada, shall be deemed guilty of an indictable offence and, on conviction thereof, shall be punished by a fine of not more than five hundred dollars for each alien, labourer, mechanic or artisan so brought or landed, and may also be imprisoned for a term not exceeding six months.

9. Nothing in this Act shall be so construed as,—

(a) to prevent any citizen or subject of any foreign country, temporarily residing in Canada either in private or official capacity, from engaging, under contract or otherwise, persons not residents or citizens of Canada, to act as private secretaries, servants or domestics for such foreigner temporarily residing in Canada;

(b) to prevent any person, partnership, company or corporation from engaging under contract or agreement, skilled workmen in foreign countries to perform labour in Canada in or upon any new industry not at present established in Canada: Provided that skilled labour for that purpose cannot be otherwise obtained;

(c) applying to professional actors, artists, lecturers or singers, or to persons employed strictly as personal or domestic servants; or,

(d) prohibiting any person from assisting any member of his family, or any relative, to migrate from any foreign country to Canada for the purpose of settlement in Canada.

10. The Attorney General of Canada, in case he shall be satisfied that an immigrant has been allowed to land in Canada contrary to the prohibition of this Act, may cause such immigrant, within the period of one year after landing or entry, to be taken into custody and returned to the country whence he came, at the expense of the owner of the importing vessel, or, if he entered from an adjoining country, at the expense of the person, partnership, company or corporation assisting, encouraging or soliciting the importation or immigration of such immigrant under contract contrary to the provisions of this Act.

11. The Minister of Finance may pay to any informer who furnishes original information that the law has been violated such a share not exceeding fifty per centum of the penalties recovered as he deems reasonable and just, where it appears that the recovery was had in consequence of the information thus furnished.

12. It shall be deemed a violation of this Act for any person, partnership, company or corporation to assist or encourage the importation or immigration of any person who resides in, or is a citizen of any foreign country to which this Act applies, by promise of employment through advertisements printed or published in such foreign country.

(2) Any such person coming to this country in consequence of such an advertisement shall be treated as coming under a contract as contemplated by this Act, and the

penalties by this Act imposed shall be applicable in such case: Provided that this section shall not apply to skilled labour not obtainable in Canada, as hereinbefore specified.

13. This Act shall apply only to the importation or immigration of such persons as reside in or are citizens of such foreign countries as have enacted and retained in force, or as enact and retain in force laws or ordinances applying to Canada of a character similar to this Act.

14. Evidence of any such law or ordinance of a foreign country may be given by the production of a copy thereof purporting to be,—

(a) printed by the government printer or at the government printing office of such foreign country, or contained in a volume of laws or ordinances of such country purporting to be so printed; or,

(b) certified to be true by some officer of state of such foreign country who also certifies that he is the custodian of the original of such law or ordinance, in which case no proof shall be required of the handwriting or official position of the person so certifying.

15. Nothing in this Act shall affect the exercise of the powers of the Government of Canada or of any province in connection with the promotion of immigration.

### Protection of Wages on Public and Subsidized Works and on Works by Chartered Companies.

Chapter 98.—1. This Act may be cited as the Wages Liability Act.

#### Public Works.

2. If any contractor with His Majesty, or any sub-contractor in the construction of any public work let under contract by His Majesty, makes default in the payment of the wages of any foreman, workman or labourer, employed on such work, or in the payment of any sum due by him for the labour of any such foreman, workman or labourer, or of any team employed on such work, and if a claim therefor is filed in the office of the Minister entering into such contract on behalf of His Majesty, not later than two months after the same becomes due, and satisfactory proof thereof is furnished, His Majesty may pay such claim to the extent of the amount of all moneys or securities in the hands of His Majesty for securing the performance of the contract at the time of the filing of the said claim.

3. His Majesty may demand in writing that each contractor or sub-contractor shall, not later than the tenth day of each month, or at any other time within ten days after receiving such demand, file in the office of the said Minister a list showing the names, rates of wages, amounts paid and amounts due and unpaid for wages or labour done by every foreman, workman, labourer and team employed by him during the previous month, or up to the time of the service of such demand, and arrested upon the oath or statutory declaration of such contractor or sub-contractor, or his authorized agent.

4. Every contractor, or sub-contractor who, having received such demand, makes default in forwarding such list in accordance with the provisions of the last preceding section, shall incur a penalty not exceeding one hundred dollars and not less than ten dollars, for every day during which such default continues.

(2) The amount of such penalty, within the said limits, shall be determined by the Minister under whom the work is being executed, and may be deducted out of the moneys in the hands of His Majesty, deposited by or owing to such contractor, and shall become vested in His Majesty.

#### Subsidized Works.

5. Whenever any subsidy, advance, loan or bonus of money is authorized by Parliament to be granted to any company or person towards the construction of any railway or other work, it shall, in the absence of special provision by Parliament to the contrary, be a condition of such grant that His Majesty may retain so much of such money as the Governor in Council thinks proper, to secure the payment of claims for wages of persons employed on such railway or work, either by such company or person or by any contractor or sub-contractor, or for sums due or to become due for labour of persons or teams so employed.

(2) If any such claim for wages, or for any such sum remains unpaid for thirty days after notice thereof has been served upon the Minister of Railways and Canals, or such other minister as is charged with the supervision of such railway or work, the Governor in Council may, on being satisfied that such claim is due and unpaid, direct that it be paid, together with all proper costs and charges in connection therewith, out of any moneys so retained.



## Works by Chartered Companies.

6. Every company hereafter incorporated by, or receiving a renewal or extension of its charter from the Parliament of Canada for the construction of railways, canals, telegraph lines and other works, shall, by virtue of accepting such incorporation, renewal or extension of charter, become and be liable for the payment of wages, for a period not exceeding three months, of every foreman, workman, labourer or team employed in the construction of any work in Canada done by or for the said company, whether directly under the company or through the intervention of any contractor or sub-contractor: Provided that nothing in this section shall be construed in any way to prejudice or affect the right of any such foreman, workman or labourer against any contractor or sub-contractor with whom he has contracted.

7. In case any such foreman, workman or labourer is not paid his wages for himself or his team by any contractor or sub-contractor by whom he has been employed, a notice stating the name of the claimant and the amount of wages claimed, the rate of such wages, the nature and amount of work done, the time when, the place where, and the name of the contractor or sub-contractor, superintendent or foreman for whom such work was done, shall be served upon the company not later than two months after such wages are earned; and such notice shall be followed up by the commencement of a suit in a court of competent jurisdiction for the collection of such wages, within thirty days after the service of such notice; otherwise the liability mentioned in the last preceding section shall cease.

8. The notice mentioned in the last preceding section, and any summons, notice, order or other process required to be served upon the company for the prosecution of such claim, may be served upon the president, vice-president, secretary, managing director, superintendent, or engineer, or any recognized officer representing the company, or by leaving it with any adult person at the office or residence of any of them.

## Seamen—Conditions of Employment on Government Vessels.

Chapter III.—1. This Act may be cited as the Government Vessels Discipline Act.

## Interpretation.

2. In this Act, unless the context otherwise required,—

(a) 'commissioner' or 'police commissioner' means any commissioner of police appointed under the Dominion Police Act;

(b) 'police constable' means any police constable appointed under the said Act;

(c) 'master' excepting when used in connection with duties or requirements connected with the ship's book, includes any person, for the time being, lawfully in command or in charge of any government vessel, as the officer thereof highest in rank then on board.

## Application.

3. Every vessel employed by the Government of Canada, either temporarily or permanently, shall be deemed to belong, while so employed, to the Government of Canada for the purposes of this Act.

## Ship's Book.

4. The master of every vessel belonging to the Government of Canada shall cause every person engaged for service in such vessel, after having had this Act read to him, and before he enters upon the discharge of any duty on board of such vessel, to sign his name in the proper column or a book to be kept by the master for that purpose.

5. Such book shall contain a statement of the name of the vessel, the name of the master, and the year for which it is the ship's book of such vessel, and also statements to the effect that,—

(a) this Act was read to each person who has signed his name in the proper column before he signed his name thereto;

(b) each person who has signed has thereby consented to submit himself to the provisions of this Act, and to conduct himself in an orderly, faithful, honest and sober manner, and to be at all times diligent in the discharge of his duty, and to be obedient to the lawful commands of the master of the said vessel for the time being and of others, his superior officers, whether on board, in boats, or on shore, in everything relating to the said vessel and the stores thereof, and to this Act;

(c) any embezzlement, or wilful or negligent destruction or loss of or injury to any part of the stores of the said vessel shall be made good out of the wages of the person guilty of the same; and,

(d) if such person has entered himself as qualified for a duty which proves incompetent to perform, he may be discharged or his wages may be reduced at the discretion of the master.



6. Such book shall contain separate columns properly headed, intended to contain respectively,—

- (a) the names of the persons engaged, including officers;
- (b) the dates when engaged;
- (c) the capacity in which each person is to serve, with the relative rank of the officers, indicated by numbers;
- (d) the period during which each person is to serve;
- (e) the rate of wages at which each person is to be paid;
- (f) the names of the witnesses to each signature; and,
- (g) the dates of signatures.

7. The ship's book of every vessel belonging to the Government of Canada shall be conclusive evidence of the relative rank of every officer therein named.

(2) The signature of any officer as being in command or in charge of the vessel, and the fact that any such officer was at any particular time in command or in charge thereof, shall not be called in question except by the Crown.

8. The contents of the said book shall be read by the master or other officer of such vessel to each man about to ship on board thereof, and every person so signing any such book shall thenceforth be subject to this Act for and during the period of his engagement as therein mentioned.

#### Discipline.

9. Whenever any person subject to this Act commits any of the following offences, he shall be liable on conviction before a commissioner, or before any justice of the peace,—

(a) for desertion, to imprisonment for any term not exceeding four weeks with or without hard labour, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned;

(b) for neglecting or refusing without reasonable cause, to join his vessel, or for absence without leave at any time within twenty-four hours of the vessel's sailing from any port, or for absence at any time, without leave and without sufficient reason, from his vessel, or from his duty, not amounting to desertion, to imprisonment for any term not exceeding four weeks with or without hard labour, and also at the discretion of the commissioner, or justice, and to forfeit out of his wages a sum not exceeding the amount of ten days' pay;

(c) for quitting the vessel without leave after her arrival in port at the close of the season of navigation, and before she is placed in security, to forfeit out of his wages a sum not exceeding ten days' pay;

(d) for wilful disobedience to any lawful command, to imprisonment for any term not exceeding four weeks, with or without hard labour, and, also, at the discretion of the commissioner or justice, to forfeit out of his wages a sum not exceeding two days' pay;

(e) for continued wilful disobedience to lawful commands, or continued wilful neglect of duty, to imprisonment for any term not exceeding four weeks, with or without hard labour, and also, at the discretion of the commissioner or justice, to forfeit for every twenty-four hours' continuance of such disobedience or neglect, a sum not exceeding two days' pay;

(f) for assaulting any master or officer of any Canadian Government vessel, to imprisonment for any term not exceeding four weeks, with or without hard labour;

(g) for combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the vessel, or the progress of the voyage, or the continuance of the cruise, to imprisonment for any term not exceeding four weeks, with or without hard labour;

(h) for wilfully damaging the vessel, or embezzling or wilfully damaging any of her stores, to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the commissioner or justice to imprisonment for any term not exceeding four weeks, with or without hard labour.

10. Upon the commission of any of the offences enumerated in the last preceding section, an entry thereof shall be made in the log-book, and shall be signed by the master and also by one of the officers or one of the crew.

(2) The offender, if still in the vessel, shall before the next subsequent arrival of the vessel at any port, or, if she is at the time in port, before her departure therefrom, be furnished with a copy of such entry, and have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit.

(3) A statement that a copy of the said entry has been so furnished, and that the same has been so read over as aforesaid, and the reply, if any, made by the offender, shall likewise be entered and signed in manner aforesaid.

(4) In any subsequent legal proceeding, the entries hereinbefore required shall, if practicable, be produced and proved, and, in default of such production and proof, the commissioner or justice hearing the case may, in his discretion, refuse to receive evidence of the offence.

11. Whenever, either at the commencement or during the progress of any voyage or cruise, any person subject to this Act neglects or refuses to join, or deserts from, or refuses to proceed on any voyage or cruise in any vessel belonging to the Government of Canada in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any officer of such vessel may, in any place in Canada, with or without the assistance of the police constables, apprehend him without first procuring a warrant, and may in any case, and shall, when such person so requires, if practicable, convey him before a commissioner or before some justice of the peace to be dealt with according to law.

(2) The master or other officer may, if such person does not require himself to be conveyed before a commissioner or justice, or if he does so require, and such course is impracticable by reason of there being no commissioner or justice at or near the place where such person is apprehended, at once convey such person on board such vessel; or the master or other officer may, for the purpose of conveying such person before such commissioner or justice, detain him in custody for a period not exceeding twenty-four hours.

(3) Every police constable shall, when requested so to do, assist any master or officer of a vessel belonging to the Government in apprehending any person offending against the provisions of this Act.

(4) If any such apprehension appears to the commissioner or justice before whom the case is brought to have been made on improper or insufficient grounds, the master or officer who makes the same or causes the same to be made, shall incur a penalty not exceeding one hundred dollars; but such penalty, if inflicted shall be a bar to any action for false imprisonment in respect of such apprehension.

12. Whenever a person subject to this Act is brought before any commissioner, or justice of the peace, on the ground of his having neglected or refused to join or proceed on any voyage or cruise in any vessel belonging to the Government of Canada, in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such commissioner or justice may, if the master or any officer thereof so requires, instead of committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage or cruise, or deliver him to the master or any officer of the vessel, to be by him so conveyed.

(2) The commissioner or justice may in such case order any costs and expenses properly incurred by or on behalf of the master, by reason of the offence, to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

13. If any person subject to this Act is imprisoned on the ground of his having neglected or refused to join or to proceed in any voyage or cruise in any vessel belonging to the Government of Canada in which he is engaged to serve, or of his having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and, if during such imprisonment, and before his engagement is at an end, his services are required on board his vessel, any justice of the peace may, at the request of the master or of any officer thereof, cause such person to be conveyed on board his said vessel for the purpose of proceeding on the voyage or cruise, or to be delivered to the master or any officer of the same, to be by him so conveyed, notwithstanding that the term for which he was sentenced to imprisonment has not expired.

14. Whenever a question arises, whether the wages of any person subject to this Act are forfeited for desertion, it shall be sufficient for the person insisting on the forfeiture to show that,—

(a) Such person was duly engaged in, or that he belonged to the vessel from which he is alleged to have deserted;

(b) he quitted such vessel before the completion of the period of his engagement; and,

(c) an entry of the desertion has been duly made in the log-book.

(2) The desertion shall thereupon, as far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the person can produce a proper certificate of discharge, or can otherwise show to the satisfaction of the commissioner or justice of the peace hearing the case that he had sufficient reason for leaving his vessel.

15. Any justice of the peace for the county or district in which is situated the port where the vessel, on board of which any offence against the provisions of this Act has been committed, touches next after the time of the commission of the offence shall have jurisdiction over any such offence.

(2) Any sentence of imprisonment under this Act may be carried out in the common gaol of such county or district.

#### Shipping—General Definitions.

Chapter 113.—2. In this Act, unless the context otherwise requires,—

(a) 'Minister' means the Minister of Marine and Fisheries;

(b) 'master' includes every person except a pilot having command or charge of any ship;

(c) 'consular officer' includes consul general, consul and vice-consul, and any person for the time being discharging the duties of consul general, consul or vice-consul;

(d) 'ship' includes every description of vessel used in navigation not propelled by oars;

(e) 'ships belonging to His Majesty' includes ships the cost of which has been defrayed out of the Consolidated Revenue Fund of Canada, and ships described as the property of Canada by the one hundred and eighth section of The British North America Act, 1867;

(f) 'form' means a form in the schedule to this Act.

### Seamen.

Chapter 113 with amendments.—126. In this Part, unless the context otherwise requires,—

(a) 'provinces' means the provinces of Quebec, Nova Scotia, New Brunswick, Prince Edward Island and British Columbia;

(b) 'Canadian foreign sea-going ship' includes every ship registered in any of the provinces employed in trading or going by sea between some place or places in Canada and some place or places out of Canada;

(c) 'Canadian home-trade ship' includes every ship registered in either of the provinces, employed in trading or going from any place or places in any of the provinces to any other place or places in any other of the provinces;

(d) 'seaman' includes every person employed or engaged in any capacity on board any ship, except masters, pilots, and apprentices duly indentured and registered;

(e) 'Board of Trade' means the Lords of the Committee of Privy Council appointed for the consideration of matters relating to trade and foreign plantations;

(f) 'shipping master' means the officer appointed by the Governor in Council as superintendent of a shipping office and includes the chief officer of the Customs in any place where the Custom-house is the shipping office and no superintendent has been appointed by the Governor in Council.

### Application.

127. This Part applies exclusively to the provinces of Quebec, Nova Scotia, New Brunswick, Prince Edward Island and British Columbia, and shall not, except as hereinafter specially provided, apply to ships belonging to His Majesty.

### Shipping Offices and Shipping Masters.

128. The Governor in Council may establish a shipping office at each port in each of the provinces, where a Custom-house is situated, and, as he deems advisable, at any other ports in the province.

129. The Governor in Council may, subject to the provisions of this Part, appoint for any such shipping office a superintendent called a shipping master, who may appoint any necessary deputies, clerks and servants, and shall, subject to the provisions of this Part, have complete control over the same, and shall be responsible for every act done by such deputies, clerks or servants.

(2) In the province of British Columbia every shipping master may with the approval of the Minister, appoint two deputy shipping masters, and not more, to assist masters of vessels in the securing of crews.

(3) All acts done by or before such deputies shall have the same effect as if done by or before such shipping masters.

130. No person who sells any spirituous liquors, and no tavern keeper or boarding-house keeper, shall be eligible for the situation of shipping master or deputy shipping master.

131. The Governor in Council may direct that at any place in any of the provinces in which no separate shipping office is established, the whole or any part of the business of the shipping office shall be conducted at the Custom-house; and thereupon the same shall be there conducted accordingly.

(2) In respect of such business, such Custom-house shall, for all purposes, be deemed to be a shipping office, and the chief officer of the Customs there, if no other shipping master has been appointed, shall, for all purposes, be a shipping master and held to have been appointed as such within the meaning of this Part.

132. All business transacted at any shipping office in any of the provinces shall be under the immediate control and supervision of the Minister.

133. Every shipping master and every deputy, clerk and servant appointed as aforesaid shall, before entering upon his duties, give such security for the due performance thereof as the Minister requires.

134. If, in any case, the Minister has reason to believe that any person appointed by any shipping master does not properly discharge his duties, he may cause an inves-

tigation to be made and direct the dismissal or suspension of such person, and may provide for the temporary performance of his duties until another person is properly appointed in his place, or during his suspension, as the case may be.

135. Every shipping master, deputy, clerk and servant so appointed, shall, before entering upon his duties, take and subscribe, before any justice of the peace, an oath in the form following, that is to say:—

'I A. B., do swear that I will faithfully perform the office and duty of shipping master (or deputy shipping master, or as the case may be) according to the true intent and meaning of Part III. of the Canada Shipping Act; that I will not, either directly or indirectly, personally, or by means of any other person or persons on my behalf, receive any fee, reward or gratuity by reason of any function of my office as shipping master (or deputy shipping master, or as the case may be), except such as are allowed to me under the said Part, and that I will act without partiality, favour or affection, and to the best of my knowledge. So help me God.'

136. Every shipping master shall,—

(a) afford facilities for engaging seamen, by keeping registers of the names of seamen who apply to him for engagement, and registers of all seamen shipped or discharged by him, which registers shall be open for public inspection;

(b) superintend and facilitate the engagement and discharge of seamen in manner hereinafter mentioned;

(c) provide means for securing the presence on board at the proper times of men who are engaged, when requested so to do; the expense of such service to be defrayed by the master, owner or agent of the ship requiring the presence of men on board;

(d) facilitate the making of apprenticeships to the sea service;

(e) perform such other duties relating to merchant seamen and merchant ships as are hereby, or are, under the powers herein contained, committed to him.

137. No person other than the shipping master or deputy shipping master shall hire, engage, supply or provide a seaman to be entered on board any ship, not being a Canadian home-trade ship, or a ship in the merchant service of any foreign country to which this Part, under the provisions thereof, does not apply.

138. No person shall employ any person other than a shipping master or deputy shipping master for the purpose of hiring, engaging, supplying or providing seamen to be entered on board any ship, not being a Canadian home-trade ship or a ship in the merchant service of a foreign country, to which this Part, under the provisions thereof, does not apply.

139. No owner, part owner, master, person in charge of any ship, ship's husband or consignee, shall knowingly receive or accept to be entered on board such ship, or permit to remain on board the same, any seaman who has been hired, engaged, supplied or provided to be entered on board thereof, contrary to the provisions of this Part, or who has been engaged or hired to be entered on board any other ship.

140. Every shipping master and deputy shipping master shall, before hiring, engaging, supplying or providing any seaman whom he has any reason to suspect of having deserted from his last ship in any of the provinces, within the then last six months, to be entered on board any ship, require such seaman to produce his certificate of discharge from his last ship, in any of the provinces, or other satisfactory proof that he was lawfully discharged from and lawfully quitted such last ship, in any of the provinces, and shall by all lawful means in his power prevent, so far as he can, the effecting before him of any engagement of a seaman whom he has any reason to suspect of having deserted from his last ship in any of the provinces.

141. Every shipping master or deputy shipping master shall be entitled to a fee of,—

(a) fifty cents on each engagement effected before him in any of the provinces under this Part, and,

(b) thirty cents on any discharge of a seaman effected before him in any of the said provinces.

(2) In the province of British Columbia every such shipping master and deputy shipping master may, until otherwise provided by the Governor in Council, take and receive from the master of any vessel any remuneration agreed upon between them, not exceeding ten dollars including the fee of fifty cents provided in paragraph (a) of subsection 1 of this section, for the hiring or supplying of any seaman by such shipping master or deputy shipping master, as the case may be, for such vessel. 1908, c. 65, s. 9.

(3) Any shipping master or the deputy, clerk or servant of any shipping master may refuse to proceed with any engagement or discharge unless the fee payable thereon is first paid.

142. Every owner or master of a ship engaging or discharging any seaman in a shipping office, or before a shipping master or a deputy shipping master in any of the provinces, shall pay to the shipping master or deputy shipping master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct and retain, in respect of each such

engagement or discharge from the wages of all persons so engaged or discharged, a sum not exceeding one-half the amount so paid to the shipping master or deputy shipping master: Provided that the sum which the owner or master of a ship engaging or discharging any seaman in a shipping office, in the province of British Columbia may deduct from the seaman's wages, shall not exceed, as to each such seaman, in the case of engagement, twenty-five cents, and, in case of discharge, fifteen cents.

143. Every shipping master appointed under this Part shall make, sign and transmit to the Minister on, or as soon as possible after the last day of June, and the last day of December in each year, a return of all the fees received by him and his deputy under this Part during the half year ending on such day.

144. The Governor in Council may, from time to time, dispense with the transaction before a shipping master or a deputy shipping master, or in a shipping office, of any matters required by this Part to be so transacted, and thereupon such matters shall, if otherwise duly transacted as required by law, be as valid as if transacted before a shipping master or deputy shipping master, or in a shipping office.

145. Every shipping master and deputy shipping master appointed under this Part, shall give all the assistance in his power towards carrying into effect the objects of the Act of the Parliament of the United Kingdom passed in the session held in the twenty-second and twenty-third years of the reign of Her late Majesty Queen Victoria, and chaptered forty, intituled An Act for the Establishment of a Reserve Volunteer Force of Seamen and for the Government of the same, in such manner as the Board of Trade, at the instance of the Lords Commissioners of the Admiralty directs.

(2) Every such shipping master and deputy shipping master shall, for such purpose, have the power to call for such answers or information concerning reserve men from the masters of and other persons belonging to British merchant ships as are necessary or desirable in order to enable him to render such assistance as aforesaid, or to make any returns which the Board of Trade or the Lords Commissioners of the Admiralty require.

#### Apprenticeships.

146. Every shipping master appointed under this Part shall, when applied to for the purpose, give to any person desirous of apprenticing a boy to the merchant service, and to every master or owner of a ship requiring an apprentice such assistance in that behalf as is in his power, and may receive from any person availing himself of such assistance, such fees as are determined in that behalf by the Minister.

147. The apprenticeship of any boy to the sea service in any of the provinces shall be by indenture between the apprentice and the master or owner of the ship requiring such apprentice.

148. Every person to whom any boy is bound as an apprentice shall, within seven days after the execution of the indenture, take or transmit the same to the shipping master nearest to the residence of the person to whom the boy is bound, and the said shipping master shall cause such indenture to be copied into a book to be kept in his office, which shall be open to public inspection free of any charge, and shall endorse on the indenture that it has been so recorded, and shall re-deliver the same to the master of the apprentice.

149. The shipping master shall be entitled to charge and receive the sum of one dollar for recording such indenture.

150. Whenever any such indenture is assigned or cancelled, or whenever any such apprentice dies or deserts, the master of the apprentice shall, within thirty days after such assignment, cancellation, death or desertion, if the same happens within Canada, or, if the same happens elsewhere, so soon afterwards as circumstances permit, notify the same to the said shipping master, to be recorded.

151. The master of every Canadian foreign sea-going ship shall, before carrying any apprentice to sea from any place in any of the provinces, cause such apprentice to appear before the shipping master before whom the crew is engaged, and shall produce to him the indenture by which such apprentice is bound, and the assignment or assignments thereof, if any.

(2) The name of such apprentice, with the date of the indenture and of the assignments thereof, if any, and the name of the port or ports at which the same have been registered, shall be entered on the indenture.

#### Engagement of Seamen and Agreement.

152. The master of every Canadian home-trade ship of or above eighty tons registered tonnage shall enter into an agreement with every seaman whom he carries as one of his crew, in the manner hereinafter mentioned.

(2) Every such agreement shall be in form H or as near thereto as circumstances permit, and shall be dated at the time of the first signature thereof, signed by the master before any seaman signs the same, and shall contain as terms thereof particulars of,—

(a) the nature and, as far as practicable, the duration of the intended voyage or engagement;

(b) the number and description of the crew, specifying how many are engaged as sailors;

(c) the time at which each seaman is to be on board or to begin work;

(d) the capacity in which each seaman is to serve;

(e) the amount of wages which each seaman is to receive;

(f) a scale of the provisions which are to be furnished to each seaman;

(g) any regulations provided by form M as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct which the parties agree to adopt.

153. Every such agreement shall be so framed as to admit of stipulations, to be adopted at the will of the master and seaman in each case as to advance and allotment of wages, and may contain any other stipulations which are not contrary to law.

(2) Such agreement shall be made and signed either before a shipping master in the manner hereinafter directed with respect to Canadian foreign sea-going ships, or in presence of a respectable witness who shall attest each signature on such agreement.

154. Any seaman who has signed such agreement may, at the termination of the agreement, if the master thinks fit, be discharged before a shipping master in the manner herein directed with respect to Canadian foreign sea-going ships.

(2) At any period, during such engagement, and before its termination, the master may discharge any such seaman on payment of his wages and with his consent, if such discharge is made in the presence of and with the sanction of a duly appointed shipping master.

155. The master of every Canadian foreign sea-going ship shall enter into an agreement with every seaman whom he carries to sea, from any port or place in any of the provinces as one of his crew.

(2) Every such agreement shall be in form H, or as near thereto as circumstances permit, and shall be dated at the time of the first signature thereof, signed by the master before any seaman signs the same, and shall contain the particulars required by this Part to be inserted as terms in the shipping agreement of a seaman carried as one of the crew of a Canadian home-trade ship.

(3) Such agreement shall be signed by the master and each seaman in the presence of a duly appointed shipping master; and such shipping master shall cause the agreement to be read over and explained to each seaman, or otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.

156. In the case of substitutes engaged in any of the provinces in the place of seamen who have duly signed the agreement and whose services are lost by death, desertion or other unforeseen cause previously to the vessel putting to sea, the engagement shall, when practicable, be made before a shipping master appointed under this Part.

(2) Whenever such last mentioned engagement cannot be so made, the master shall before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to the seamen who have shipped as substitutes; and such seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures.

157. Except additions made, as in this Part directed for shipping substitutes or persons engaged subsequently to the first departure of the ship, every erasure, interlineation, or alteration in any such agreement with seamen, shall be inoperative, unless proved to have been made with the consent of all the persons interested therein by the written attestation of,—

(a) a shipping master, justice of the peace, Customs officer or other public functionary, if made in His Majesty's dominions; or,

(b) a British consular officer, or, where there is no such officer, two respectable British merchants, if made out of His Majesty's dominions.

158. A clause may be inserted in the agreement providing for the sale of the vessel during the voyage intended, and for the discharge of the crew in the event of such sale, and shall state the amount of wages to be paid to the seamen upon such sale.

159. In the case of ships registered in any of the provinces making short voyages from any port or place in any of the provinces by sea to ports and places out of Canada, averaging less than two months' duration, running agreements with the crew may be made to extend to two or more voyages, or for a specified time: Provided that no such agreement shall extend beyond six months from the date of such agreement, or the first arrival of the ship at her port of destination in any of the provinces after the termination of such agreement or the discharge of cargo consequent upon such arrival.

160. Every person who enters into such agreement, whether engaged upon the first commencement thereof or otherwise in any of the provinces, shall enter into and sign the same in the manner hereby required for other ships trading by sea to ports or places out of Canada.



(2) Every person engaged thereunder, if discharged in any of the provinces, shall be discharged in the manner required by this Part for the discharge of seamen belonging to other ships trading by sea to ports or places out of Canada.

161. Any seaman may bring forward evidence to prove the contents of any agreement under this Part, or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof.

162. Any seaman who has signed an agreement under this Part and is afterwards discharged before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he has earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the court hearing the case deems satisfactory, of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.

163. In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, and in every instrument whereby any person is bound to serve as an apprentice on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship, that the owner of the ship, and the master and every agent charged with the loading of the ship, or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep her in a seaworthy condition for the voyage during the same: Provided that nothing in this section shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending thereof to sea is reasonable and justifiable.

164. The master of every ship shall furnish and pay for every blank form required by this Part to be used by him.

#### Advance Notes.

165. The ship's husband or the owner, part owner, master or person in charge of Canadian foreign sea-going ship, or Canadian home-trade ship, shall not pay in advance, or give any note or acceptance in writing or otherwise in the nature of and purporting to be an advance note for any part of the wages of any seaman hired, engaged, supplied or provided to be entered on board the said ship, until after the ship's articles have been duly signed by the said seaman and by the master or owner of the said ship.

(2) Such note or acceptance may be made payable to the order of such seaman and shall be given only to the seaman himself.

(3) No such note or acceptance shall be made or be payable at any time sooner than five days after the final sailing of the ship with such seaman on board.

(4) All payments of wages contrary to the provisions of this section shall be null and void; and the amount thereof shall be recoverable by the seaman as if such payments had not been made or advanced.

#### Report of Changes in Crew.

166. The master of every Canadian foreign sea-going ship of which the crew has been engaged before a shipping master in Canada shall, before finally leaving Canada, sign and send to the shipping master before whom the crew was engaged, a full and accurate statement of every change which takes place in his crew before finally leaving Canada.

(2) Such statement shall be admitted as evidence, subject to all just exceptions.

#### Production of Certificate of Competency.

167. The master of every Canadian foreign sea-going ship over one hundred tons register, shall, on signing the agreement with his crew, produce to the shipping master before whom the same is signed, the certificates of competency or service, which the said master and his first mate or only mate, are required by law to possess.

(2) If the shipping master is the chief officer of Customs at the port, he shall not clear any such ship of over one hundred tons register without such certificates being first produced to him, and shall not clear any ship of any tonnage register until all the requirements of this Part have been complied with to his satisfaction.

#### Certificate from Shipping Master.

168. The shipping master, whenever he is not the chief officer of Customs at the port, in the case of any ship of any tonnage register, on all the requirements of this Part being complied to his satisfaction, and any such ship of over one hundred tons register, on the production of the said certificates in addition to complying with all the requirements of this Part to his satisfaction, shall give the master of the ship a certificate to that effect or to the effect that the agreement is in his office partially signed, waiting an engagement of a portion of the crew, as the case may be.

169. No officer of Customs shall clear any ship of any tonnage register, without the production of the shipping master's certificate to the effect that all the requirements of this Part have been complied with, or to the effect that the agreement is in his office partially signed waiting an engagement of a portion of the crew, as the case may be, and shall not clear any such ship of over one hundred tons register, without the production of such certificate, and the certificates of competency or service above mentioned.

(2) At any port at which the chief officer of Customs acts as shipping master, such officer of Customs shall not clear any ship outwards until all the requirements of this Part have been complied with to his satisfaction.

#### Allotment of Wages.

170. All stipulations for the allotment of any part of the wages of a seaman during his absence, which are made at the commencement of the voyage, shall be inserted in the agreement, and shall state the amounts and times of payments to be made.

(2) Allotment notes may be in form I.

171. Unless the seaman is shown to the satisfaction of the court, as provided in this Part, to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, or, in case of the wife, that she has deserted her children or so misconducted herself as to be undeserving of support from her husband, the wife, or the father or mother, or the grandfather or grandmother, or any child or grandchild, or any brother or sister, of any seaman in whose favour an allotment note of part of the wages of such seamen is made, may sue for and recover the sums allotted by the note when and as the same are made payable, with costs, from the owner or any agent who has authorized the drawing of the note,—

(a) either in the summary manner in which seamen are, by this Part, enabled to sue for and recover wages not exceeding two hundred dollars; or,

(b) in any court in any of the provinces having jurisdiction to the amount, within the limits of whose jurisdiction such owner or agent has been served with process, or the agreement and allotment note or either of them were or was made if such owner or agent has been duly served with process in any place in any of the provinces within or without such limits.

172. In any such proceeding to recover the sums so allotted, it shall be sufficient for the claimant to prove that he or she is the person mentioned in the note, and that the note was given by the owner or by the master or some authorized agent.

173. The seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the court by,—

(a) the official statement of the change in the crew caused by his absence made and signed by the master, as by this Part is required; or,

(b) a duly certified copy of some entry in the log-book to the effect that he has left the ship; or,

(c) a credible letter from the master of the ship to the same effect; or,

(d) such other evidence, of whatever description, as the court in its absolute discretion considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

#### Discharge and Payment of Wages.

174. Except in cases where some competent court otherwise directs, all seamen discharged in any of the provinces from ships registered in any of the provinces other than Canadian home-trade ships, shall be discharged and receive their wages in the presence of the shipping master.

(2) In the case of Canadian home-trade ships, seamen may, if the owner or master so desires, be discharged and receive their wages in like manner.

175. Every master shall before paying off or discharging any seaman in any of the provinces from a ship registered in any of the said provinces, not being a Canadian home-trade ship of less than eighty tons, deliver to him, or if he is to be discharged before a shipping master, to such shipping master, a full and true account of his wages, in form J, and of all deductions to be made therefrom on any account whatsoever.

176. The master of any ship registered in any of the provinces other than a Canadian home-trade ship of less than eighty tons, shall, upon paying off or discharging any seaman in any of the provinces, sign and give to him a certificate of his discharge in form K, specifying the period of his service and the time and place of his discharge.

(2) Such master shall make and sign on such certificate a report of the conduct, character and qualifications of the person discharged during the period he has been in his employment, or state thereon that he declines to give any opinion upon such particulars or upon any of them.

177. Every shipping master in Canada may hear and decide any question whatsoever between a master or owner of a ship registered in Canada and any of his crew, which both parties agree in writing to submit to him; and every award so made by



him shall be binding on both parties, and shall, in any legal proceedings, which are taken in the matter before any court of justice in Canada, be deemed to be conclusive as to the rights of the parties.

(2) Any document purporting to be such submission or award shall be *prima facie* evidence thereof.

(3) Such shipping master may charge a fee not exceeding four dollars as remuneration therefor.

178. In any proceeding relating to the wages, claims or discharge of any seaman belonging to any ship registered in any of the provinces carried on before any shipping master under the provisions of this Part, such shipping master may call upon the owner or his agent, or upon the master or any mate or other member of the crew, to produce any log-books, papers or other documents in their respective possession or power, relating to any matter in question in such proceedings, and may call before him and examine on oath on any such matter any of such persons then at or near the place.

#### Legal Rights to Wages.

179. In the case of ships registered in any of the provinces, the right to wages and provisions of a seaman engaged in any of the said provinces shall be taken to commence either at the time at which he commences work, or at the time specified for his commencement of work or presence on board, whichever first happens.

180. No seaman engaged under this Part for any ship registered in any of the provinces shall, by any engagement made in any of the provinces, forfeit his lien upon the ship, or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled.

(2) Every stipulation in any agreement made in any of the provinces inconsistent with any provision of this Part and every stipulation by which any seaman consents to abandon his right to wages in the case of the loss of the ship, or to abandon any right which he has or obtains in the nature of salvage, shall be wholly inoperative: Provided that this subsection shall not apply to the case of any stipulation made by the seamen belonging to any ship which, according to the terms of the agreement, is to be employed on salvage service, with respect to the remuneration to be paid to them for salvage services to be rendered by such ship to any other ship.

181. No right to wages of any seaman or apprentice on board of any ship registered in any of the provinces shall be dependent on the earning of freight.

(2) Every such seaman or apprentice who would be entitled to demand and recover any wages, if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same, notwithstanding that freight has not been earned: Provided that, in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo and stores, shall bar his claim.

182. If any seaman or apprentice to whom wages are due under the last preceding section dies before the same are paid, such wages shall be paid and applied in the manner in this Part specified, with regard to the wages of seamen who die during a voyage.

183. Whenever the services of any seaman belonging to any ship registered in any of the provinces, terminates before the period contemplated in the agreement by reason of the wreck or loss of the ship, or by reason of his being left on shore at any place abroad, under a certificate of his unfitness or inability to proceed on the voyage, granted as in this Part mentioned, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.

184. No seaman or apprentice belonging to any ship registered in any of the provinces shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work, or, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

185. Whenever a seaman belonging to any ship registered in any of the provinces is, by reason of illness, incapable of performing his duty, and it is proved that such illness has been caused by his own wilful act or default, he shall not be entitled to wages for the time during which he is, by reason of such illness, incapable of performing his duty.

186. Excepting cases in which the seaman by the agreement is paid by a share of the profits of the adventure, the master or owner of every ship registered in any of the provinces shall pay every seaman belonging to such ship, his wages, if demanded, within three days after the delivery of the cargo, or five days after the seaman's discharge, whichever first happens.

#### Mode of Recovering Wages.

187. Any seaman or apprentice belonging to any ship registered in any of the provinces, or any person duly authorized on his behalf, may, whenever wages due to him to an amount not exceeding two hundred dollars over and above the costs of any proceeding

for the recovery thereof becomes payable, sue for the same, in a summary manner before any judge of the Superior Court of the province of Quebec, any judge of the sessions of the peace, any judge of a county court, stipendiary magistrate, police magistrate, or any two justices of the peace acting in or near the place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any master or owner or other person upon whom the claim is made is or resides.

(2) Such judge, magistrate or justices may, upon complaint on oath made to him or them by such seaman or apprentice, or on his behalf, summon such master or owner or other person to appear before him or them to answer such complaint.

188. Upon appearance of such master or owner, such judge magistrate or justices may examine upon oath the parties and their respective witnesses, touching the complaint and the amount of wages due, and may make such order for the payment of any wages found due as appears reasonable and just.

(2) If the master or owner does not appear, then, on due proof of such master or owner having been duly summoned, such judge, magistrate or justices may examine on oath the complainant and his witnesses, touching the complaint and amount of wages due and may make such order for the payment of any amount of wages found due as appears reasonable and just.

(3) Any order for the payment of wages made under the provisions of this section shall be final.

189. If such order is not obeyed within twenty-four hours next after the making thereof, such judge, magistrate or justices may issue a warrant to levy the amount of the wages awarded to be due by distress and sale of the goods and chattels of the person on whom such order is made, together with all the charges and expenses incurred by the seaman or apprentice in the making and bearing of the complaint and all costs, charges and expense incurred by the distress and levy, and in the enforcement of the order.

(2) Any surplus, after the amount of the wages awarded and all such charges are deducted, shall be paid to the person on whom such order is made.

190. If sufficient distress cannot be found, such judge, magistrate or justices may cause the amount of such wages and expenses to be levied on the ship in respect of the service on board which the wages are claimed, or the tackle and apparel thereof.

(2) If such ship is not within the jurisdiction of such judge, magistrate or justices, then they may cause the person on whom the order for payment is made to be apprehended and committed under each condemnation to the common goal of the locality, or, if there is no goal there, then to that which is nearest to the locality, for a term not exceeding three months and not less than one month.

191. No suit or proceedings for the recovery of wages under the sum of two hundred dollars shall be instituted by or on behalf of any seaman or apprentice belonging to any ship registered in any of the provinces in the Exchequer Court on its Admiralty side, or in any superior court in any of the provinces, unless,—

(a) the owner of the ship is insolvent within the meaning of any Act respecting insolvency, for the time being in force in Canada; or

(b) the ship is under arrest or is sold by the authority of the Exchequer Court on its Admiralty side, or any superior court; or

(c) any judge, magistrate or justices, acting under the authority of this Part, refer the case to be adjudged by such court; or,

(d) neither the owner nor the master is or resides within twenty miles of the place where the seaman or apprentice is discharged or put ashore.

192. If any suit for the recovery of a seaman's wages is instituted against any such ship or the master or owner thereof in the Exchequer Court on its Admiralty side, or in any superior court in any of the provinces, and it appears to the court, in the course of such suit, that the plaintiff might have had as effectual a remedy for the recovery of his wages by complaint to a judge, magistrate or two justices of the peace under this Part, the judge shall certify to that effect, and thereupon no costs shall be awarded to the plaintiff.

193. No seaman belonging to any Canadian foreign seagoing ship who is engaged for a voyage or engagement which is to terminate in any of the provinces shall be entitled to sue in any court abroad for wages, unless he is discharged with such sanction as herein required, and with the written consent of the master, or proves such ill-usage on the part of the master, or by his authority, as to warrant reasonable apprehension of danger to the life of such seaman, if he remained on board.

(2) If any seaman, on his return to any of the provinces, proves that the master or owner has been guilty of any conduct or default which, but for this section, would have entitled the seaman to sue for wages before the termination of the voyage or engagement, he shall be entitled to recover in addition to his wages, such compensation, not exceeding eighty dollars, as the court hearing the case thinks reasonable.

194. Every master of a ship registered in any of the provinces shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages,

and for the recovery of disbursements properly made by him on account of the ship and for liabilities properly incurred by him on account of the ship, which, by this Part or by any law or custom, any seaman, not being a master, has for the recovery of his wages.

195. If, in any proceeding in any court possessing Admiralty jurisdiction in any of the provinces touching the claim of a master to wages or such disbursements and liabilities as aforesaid, any right of set-off or counter-claim is set up, such court may enter into and adjudicate upon all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceedings, and may direct payment of any balance which is found to be due.

#### Wages and Effects of deceased Seamen.

196. Whenever any seaman or apprentice belonging to or sent home in any Canadian foreign sea-going ship employed on a voyage which is to terminate in any of the provinces dies during such voyage, the master shall take charge of all money, clothes and effects which he leaves on board, and shall, if he considers it necessary in order to prevent contagion or disease, dispose of the clothes in such way as he thinks fit, and shall thereupon sign an entry in the log-book containing a statement,—

(a) of the amount of money and a description of the effects left by the deceased, and, if any effects were disposed of to prevent contagion or disease, a statement of such effects and the mode of disposing of them and the amount received for each article; and,

(b) of the amount due to the deceased as wages, and of the total amount of the deductions, if any, to be made therefrom;

and shall cause such entry to be attested by a mate and by one of the crew.

197. The master shall, on arrival at any port in any of the provinces at which there is a shipping master, within three days after his arrival, deliver to such shipping master a full and true account of such effects, money and wages, with an account of any deductions made therefrom.

(2) No deductions claimed in any such account shall be allowed unless verified by an entry in the log-book, and also by such other vouchers as are reasonably required by the shipping master to whom the account is rendered.

(3) Such shipping master shall furnish the Minister with a copy of such account within six days after receiving the same, and shall, subject to his directions, deliver such wages, effects and money to the legal representative of the deceased seaman or apprentice.

(4) If no such representative can be found, then such shipping master shall dispose of such effects, money and wages in such manner as the Minister directs.

198. If any master fails to take such charge of the money or other effects of any such seaman or apprentice dying during a voyage, or to make such entry thereof, or to procure such attestation to such entries, or to make such payment or delivery of any money, wages or effects of any such seaman or apprentice dying during a voyage, or to give such account in respect thereof as is by this Part in such cases required, he shall be accountable to the legal representative of such seaman or apprentice and shall pay and deliver the same accordingly.

(2) If any such money, wages or effects are not duly paid, delivered or accounted for by the master, the owner of the ship shall pay, deliver and account for the same, and such money and wages and the value of such effects shall be recoverable from him accordingly.

199. All money, wages and effects of any such seaman or apprentice dying during a voyage, shall be recoverable in the same court and by the same modes of proceeding by which seamen are, by this Part, enabled to recover wages due to them.

(2) Any shipping master who fails to report the receipt of such accounts, wages, money and effects to the Minister, or who fails to deliver or pay over such wages, money and effects as directed, shall be liable to be dismissed from his office.

200. Whenever any such seaman or apprentice dies in any of the provinces, and is, at the time of his death, entitled to claim from the master or owner of any such ship in which he has served any unpaid wages or effects, such master or owner shall pay and deliver or account for the same to the shipping master at the port where such seaman or apprentice was discharged or was to have been discharged, or to the Minister, or as the Minister directs.

201. In cases of wages or effects of deceased seamen and apprentices who belonged, at the time of their death, to ships registered in any of the provinces, received by any shipping master on behalf of the Government of Canada, to which no claim is substantiated within six years after the receipt thereof by such shipping master on behalf of the Government of Canada, it shall be in the absolute discretion of the Governor in Council, if any subsequent claim is made, either to allow or to refuse the same.

202. The Governor in Council may, subject to the provisions of this Part, from time to time, order and direct that any moneys arising from the unclaimed wages and effects of deceased seamen and apprentices, which, in the opinion of the Governor in

Council, it is not necessary to detain for the purpose of satisfying claims, shall be paid to the Minister of Finance to form part of the Consolidated Revenue Fund.

(2) Such moneys shall be applied as the Governor in Council directs.

#### Leaving Seamen Abroad.

203. Whenever any Canadian foreign sea-going ship is transferred or disposed of at any place out of His Majesty's dominions, and any seaman or apprentice belonging thereto does not, in the presence of some British consular officer, or, if there is no such consular officer there, in the presence of one or more respectable British merchants residing at the place and not interested in the said ship, signify his consent in writing to complete the voyage, if continued, and whenever the service of any seaman or apprentice belonging to any such ship terminates at any place out of His Majesty's dominions, the master shall give to each such seaman or apprentice a certificate of discharge and, in the case of any certificated mate, whose certificate he has retained, shall return such certificate to him.

204. Such master shall also, besides paying the wages to which such seaman or apprentice is entitled,—

(a) either provide him with adequate employment on board some other British ship bound to the port in Canada or any other port in His Majesty's dominions at which he was originally shipped, or to such other port as is agreed upon by him; or,

(b) furnish the means of sending him back to such port, or provide him with a passage home, or deposit with such consular officer or such merchant or merchants as aforesaid, such a sum of money as is by such officer or merchants deemed sufficient to defray the expenses of his subsistence and passage home.

205. If the master refuses or neglects to comply with the provisions of the last preceding section, such expenses, if defrayed by such consular officer or any other person, and the particulars of such payment, provision or deposit endorsed by him or them upon the agreement of the ship which the seaman or apprentice is leaving, shall, unless such seaman or apprentice has been guilty of barratry, be a charge upon the ship to which such seaman or apprentice belonged, and upon the owner for the time being thereof, and may be recovered with costs,—

(a) from such owner at the suit of the consular officer or other person defraying such expenses; or,

(b) if the same has been allowed to the consular officer out of the public moneys, as a debt due to His Majesty; by ordinary process of law, or in the manner in which seamen are hereby enabled to recover wages.

(2) Such expenses, if defrayed by the seaman or apprentice, shall be recoverable as wages due him.

206. Every master of a Canadian foreign sea-going ship, who leaves any seaman or apprentice on shore at any place out of Canada under a certificate of his unfitness or inability to proceed on the voyage, shall deliver to one of the functionaries aforesaid, or, in the absence of such functionaries, to the merchants by whom such certificate is signed, or, if there is but one respectable merchant resident at such place, to such merchant, a full and true account of the wages due to such seaman or apprentice, and shall pay the same in money whenever practicable so to do, or, if impracticable, by a bill drawn upon the owner.

(2) Such account, when delivered to the consular officer, shall be in duplicate.

(3) Whenever payment is made by bill drawn by the master, the owner of the ship shall be liable to pay the holder or endorsee thereof the amount for which the same is drawn.

(4) It shall not be necessary in any proceeding against the owner upon such bill to prove that the master had authority to draw the same.

(5) Any bill purporting to be drawn and endorsed in pursuance and as by this section required shall, if produced out of the custody of the Minister or of any shipping master, and any endorsement on any such bill purporting to be made in pursuance of this section and to be signed by one of the functionaries aforesaid shall be received in evidence, and such endorsement shall be *prima facie* evidence of the facts therein stated.

207. The Governor in Council may, on the production of the bills of the disbursements, with the proper vouchers and such other evidence as the Governor in Council requires, pay, out of any moneys applicable to the relief of distressed seamen and granted by the Parliament of Canada, for such purpose, any reasonable expenses incurred by the Board of Trade of the United Kingdom, or by any officers of His Majesty in any British possession other than Canada, or in any foreign country, on account of subsistence or transport back to Canada of any seamen or apprentices who have been domiciled in Canada for twelve months and who have been found in distress, either on account of shipwreck or otherwise, in any place out of Canada.

(2) Persons serving in ships registered in Canada shall, for the purpose of this section, be deemed to be domiciled in Canada while so serving.

208. If any seaman or apprentice belonging to any Canadian foreign sea-going ship is discharged or left behind at any place out of Canada, without full compliance on the part of the master with all the provisions in that behalf in this Part contained, and becomes distressed and is relieved under the provisions of this Part, all expenses incurred for his subsistence, necessary clothes, conveyance back to Canada, and burial in case he dies abroad before reaching Canada, shall be a charge upon the ship to which he belonged.

209. The Minister may, in the name of His Majesty, besides suing for any penalties which have been incurred, sue for and recover the said wages and expenses with costs, either from the master of such ship as aforesaid, or from the person who is owner thereof for the time being, in the same manner as other debts due to His Majesty, or in the same manner and by the same form and process in which wages due to the seaman would be recoverable by him.

(2) In any such proceeding, production of the account to be furnished as hereinbefore provided in such cases, together with proof of payment by the Board of Trade of the United Kingdom, or by the Government of Canada, of the charges incurred on account of any such seaman or apprentice, shall be sufficient evidence that he was relieved, conveyed home or buried, as the case may be, at the expense of the Government of the United Kingdom or of the Government of Canada.

#### Provisions, Health and Accommodation.

210. Any three or more of the crew of any ship registered in any of the provinces may complain to any officer in command of any of His Majesty's ships or any shipping master in Canada, that the provisions or water for the use of the crew are at any time of bad quality, unfit for use or deficient in quantity; and such officer may thereupon examine the said provisions or water, or cause them to be examined.

(2) If, on examination, such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship.

211. Upon every such examination, the officer making or directing the same shall enter a statement of the result of the examination in the log-book, and shall send a report thereof to the Minister.

(2) Such report, if produced out of the custody of the Minister or any officer of the Government, shall be received in evidence in any legal proceedings.

212. If the officer to whom any such complaint is made certifies in such statement that there was no reasonable ground for such complaint, each of the persons so complaining shall be liable to forfeit to the owner, out of his wages, a sum not exceeding one week's wages.

213. Whenever, during the voyage, the allowance of any of the provisions which any seaman has by his agreement stipulated for is reduced, or if it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use, the seaman shall receive, by way of compensation for such reduction or bad quality, according to the time of its continuance, in addition to and to be recoverable as wages,—

(a) if his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement an amount not exceeding eight cents a day; or,

(b) if his allowance is reduced by more than one-third of such quantity, sixteen cents a day; or

(c) in respect of the bad quality of such provisions or of their unfitness for use, an amount not exceeding twenty-four cents a day;

Provided it is shown to the satisfaction of the court before which the case is tried, that any provisions the allowance of which has been reduced could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the court shall take such circumstances into consideration, and shall modify or refuse compensation as the justice of the case requires.

(2) There shall be no allowance by way of compensation to any seaman,—

(a) where any such reduction is made in accordance with any regulation for reduction by way of punishment contained in the agreement; or,

(b) for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty; or is lawfully under confinement for misconduct either on board or on shore.

214. Every master of a ship registered in any of the provinces shall keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witness, whenever any dispute arises about such quantities.

## Expenses in Case of Illness and Death.

215. If the master or any seaman or apprentice of any Canadian foreign sea-going ship,—

(a) receives any hurt or injury in the service of the ship to which he belongs, the expense of providing the necessary surgical and medical advice, with attendance and medicines, and of his subsistence until he is cured or dies, or is brought back to some port in the United Kingdom, if shipped in the United Kingdom, or to some port in Canada, if shipped in Canada, or in some other British possession, and of his conveyance to such port, and the expense of his burial; or

(b) is, on account of any illness, temporarily removed from his ship for the purpose of preventing infection or otherwise for the convenience of the ship, and subsequently returns to his duty, the expense of such removal and of providing the necessary advice with attendance and medicines and of his subsistence while away from his ship; shall be defrayed by the owner of such ship, without any deduction on that account from the wages of such master, seaman or apprentice.

(2) The expenses of all medicines and surgical and medical advice and attendance given to any master, seaman or apprentice of any Canadian foreign sea-going ship whilst on board his ship, shall be defrayed in like manner by the owner of such ship without any such deduction.

216. In all other cases, any reasonable expenses duly incurred by the owner for any seaman or apprentice in respect of any illness, or in respect of the burial of any seaman or apprentice who dies whilst on service, shall, if duly proved, be deducted from the wages of such seaman or apprentice.

217. If any such expenses in respect of the illness, injury or hurt of any seaman or apprentice belonging to any Canadian foreign sea-going ship as are to be borne by the owner are paid by any consular officer or any other person on behalf of His Majesty, or if any other expenses in respect of the illness, injury or hurt of any seaman or apprentice whose wages are not accounted for to such officer under the provisions hereinbefore contained in that behalf are so paid, such expenses shall be repaid to the officer or other person by the master of the ship.

(2) In case the same shall not be so repaid, the amount thereof, with costs, shall be a charge upon the ship, and be recoverable from the said master or from the owner of the ship for the time being, as a debt due to His Majesty, by ordinary process of law, or in the manner provided in this Part for the recovery of seamen's wages.

(3) In any proceeding for the recovery thereof, the production of a certificate of the facts signed by such officer or other person, together with such vouchers as the case requires, shall be sufficient proof that such expenses were duly paid by such consular officer or other person.

## Accommodation for Seamen and Apprentices on board Canadian Foreign Sea-going Ships.

218. Every place in any Canadian foreign sea-going ship occupied by seamen or apprentices and appropriated to their use shall have, for every such seaman or apprentice, a space of not less than seventy-two cubic feet, and of not less than twelve superficial feet, measured on the deck or floor of such place.

219. Every such place shall be such as to make the space aforesaid available for the proper accommodation of the men who are to occupy it, shall be securely constructed, properly lighted and ventilated, properly protected from weather and sea, and, as far as practicable, shall be properly shut off and protected from the effluvium caused by cargo or bilge water.

220. No such place shall be deemed to be such as to authorize a deduction from registered tonnage, under the provisions hereinafter contained, unless there is or are in the ship one or more properly constructed privy or privies for the use of the crew which shall be of such number and of such construction as are approved by the surveyor hereinafter mentioned.

221. Every such place shall, whenever the ship is registered or re-registered, be inspected by one of the surveyors appointed by the Governor in Council under the Merchant Shipping Act, 1894, who shall, if satisfied that the same is in all respects such as is required by this Part, give to the collector of Customs a certificate to that effect, and thereupon such space shall be deducted from the registered tonnage.

222. No such deduction from tonnage shall be authorized unless there is permanently cut in a beam, and cut in or painted on or over the doorway or hatchway of every such place, with the words Certified to accommodate \_\_\_\_\_ seamen, appropriately filled in, a figure or figures indicating the number of men which it is constructed to accommodate.

223. Every such place shall be kept free from stores or goods of any kind, which are not the personal property of the crew, in use during the voyage.



224. Upon any complaint concerning any such place, one of the surveyors appointed by the Governor in Council may inspect such place, and, if he finds that any of the provisions of this Part with respect to the same are not complied with, he shall report such non-compliance to the collector of Customs at the port where the ship is registered; and thereupon the registered tonnage shall be altered and the deduction aforesaid in respect of space disallowed, until it is certified by such surveyor, or by some other surveyor appointed by the Governor in Council, that the provisions of this Part in respect of such place are fully complied with.

225. If any such place in any such ship is not kept free from goods and stores, the master shall be deemed to be in fault, and shall, for every such failure to comply with the provisions of this Part regarding seamen's accommodation, pay to each seaman lodged in such place the sum of twenty-four cents a day for each day after complaint made to him by any two or more of such seamen during which any goods or stores, which are not the personal property of the crew, are stored or kept therein.

#### Power of Making Complaints.

226. If any seaman or apprentice whilst on board, in any of the provinces, any ship registered in any of the provinces states to the master that he desires to make complaint to justice of the peace or naval officer in command of any of His Majesty's ships against the master or any of the crew, the master shall, if the ship is then at a place where there is a justice or any such officer as aforesaid, as soon as the service of the ship will permit, and, if the ship is not then at such a place, so soon after her arrival at such a place in any of the provinces as the service of the ship will permit, allow such seaman or apprentice to go ashore or send him ashore in proper custody, so that he may be enabled to make such complaint.

#### Inspection of Ships Ordered by Court.

227. Whenever, in any proceeding against any seaman or apprentice belonging to any ship registered in any of the provinces for desertion, or for neglecting or refusing to join or to proceed to sea or on any voyage in his ship, or for being absent from or quitting the same without leave, it is alleged by one-fourth the seamen belonging to such ship, or, if the number of men exceeds twenty, by at least five such seamen, that such ship is, by reason of unseaworthiness, overloading, improper loading, defective equipment, or for any other reason, not in a fit condition to proceed to sea on such voyage, or that the accommodation in such ship is insufficient, the court having cognizance of the case shall take such means as are in its power to satisfy itself concerning the truth or untruth of such allegation, and shall, for that purpose, receive the evidence of the person or persons making the same, and have power to summon any other witnesses whose evidence such court thinks it desirable to hear; and the court shall thereupon, if satisfied that the allegation is groundless, adjudicate accordingly, otherwise the court shall cause such ship to be surveyed.

228. No seaman or apprentice charged with desertion, or with quitting his ship without leave, shall have any right to apply for any such survey, unless, previously to his quitting his ship, he has complained to the master of the circumstances so alleged in justification.

229. For the purposes of such survey, the court may appoint and require any person having no interest in the ship, her freight or cargo whom the court deems competent to deal with the special circumstances of the case, to survey the ship, and to answer any question concerning her which the court thinks fit to put.

230. Such person shall survey the ship and make his report in writing to the court, including an answer to every question put to him by the court.

231. The court shall cause such report to be communicated to the parties, and, unless it is proved to the satisfaction of the court that the opinions expressed in such report are erroneous, the court shall determine the questions before it in accordance with such opinions.

232. For the purpose of such survey, the person appointed to make the same may, in the execution of his duty, go on board the ship, at any reasonable time, and may inspect the same or any part thereof, or any of the machinery, boats or other equipments, or cargo thereof, or any provisions or other articles on board thereof, the inspection of which appears to him to be requisite for the purpose of the inquiry he is required to make, and, if, for any reason, he considers it necessary so to do, may require the ship to be so dealt with that he may be able to inspect every part of the hull thereof, but shall not, in making such survey, unnecessarily detain or delay the ship from proceeding to sea or on her voyage.

233. The costs of the survey shall be determined by the court, and shall be paid by the master or owner of the ship, or by the recognized consignee or agent thereof, if such recognized consignee or agent has sufficient moneys in his hands received on account of such ship.

234. Every recognized consignee or agent of a ship, not being the owner or master of such ship, may, out of any moneys in his hands received on account of such ship, retain the amount of the costs so paid by him, together with any reasonable expenses he has incurred by reason of such payment and liability.

235. If it is proved to the satisfaction of the court that the ship is in a fit condition to proceed to sea or on her voyage, or that the accommodation is sufficient, as the case may be, the costs of the survey may be deducted by the master or owner out of the wages due or to become due to the person or persons upon whose demand, or in consequence of whose allegation, the survey was made.

#### Protection of Seamen from Imposition.

236. No wages due or accruing to any seaman or apprentice belonging to any ship registered in any of the provinces, shall be subject to attachment from any court; and every payment of wages to any such seaman or apprentice shall be valid in law, notwithstanding any previous sale or assignment of such wages or any attachment or encumbrance thereon.

237. No assignment or sale of such wages or of salvage made prior to the accruing thereof shall bind the person making the same.

(2) No power of attorney or authority for the receipt of any such wages or salvage shall be irrevocable.

238. No debt exceeding in amount one dollar incurred by any seaman belonging to any ship registered in any of the provinces, after he has engaged to serve, shall be recoverable until the service agreed for is concluded.

239. No debt exceeding the sum of one dollar, incurred by any seaman or apprentice shall be recoverable in any court or be pleadable by way of set-off by any keeper of a tavern, or house of public entertainment or lodging house.

240. The wearing apparel of any seaman or apprentice shall not be kept by any keeper of a tavern, house of public entertainment or lodging house, in pledge for any debt or expenses incurred to any greater amount than one dollar; and, on the payment or tender of such sum or of any less sum due, such wearing apparel shall be immediately given up, whatever is the amount due by such seaman or apprentice.

241. No person other than an owner, agent of an owner, or consignee of the ship or cargo, or a person in the employment of either of them, or an officer or person in His Majesty's service or employment, harbour master, deputy harbour master, health officer, Custom house officer, pilot, shipping master or deputy shipping master shall, without the permission or against the orders of the master or person in charge of such ship, go aboard of any merchant ship arriving or about to arrive from sea at the place of her destination before her actual arrival in dock, or at any quay or place of her discharge, or while she remains in port.

#### Change of Master.

242. If, during the progress of a voyage, the master of any Canadian foreign sea-going ship is superseded in any of the provinces, or, for any other reason, quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the certificate of registry and the various documents relating to the navigation of the ship and to the crew thereof which are in his custody.

(2) Such successor shall immediately, on assuming the command of the ship, enter in the log-book a list of the documents so delivered to him.

#### Log-book.

243. The master of every Canadian foreign sea-going ship shall keep a log-book, and every entry to be made in such log-book shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same date as the occurrence to which it relates, shall be made and dated so as to show the date of the occurrence, and of the entry respecting it.

(2) In no case shall any such entry therein, in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge in any of the provinces, be made more than twenty-four hours after such arrival.

244. The master of such ship, whether he does or does not make in such log-book the entries usually made in ships' log-books, shall make or cause to be made therein entries of,—

(a) every legal conviction of any member of his crew, and the punishment inflicted;

(b) every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with the statement concerning the reading over such entry and concerning the reply, if any, made to the charge;

(c) every offence for which punishment is inflicted on board, and the punishment inflicted;



(d) the conduct, character and qualifications of each of his crew, or the fact that he declines to give an opinion on such particulars;

(e) every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted, if any;

(f) every case of death happening on board and the cause thereof;

(g) every birth happening on board, with the sex of the infant, and the names of the parents;

(h) every marriage which takes place on board, with the names and ages of the parties;

(i) the name of every seaman and apprentice who ceases to be a member of the crew, otherwise than by death, with the place, time, manner and cause thereof;

(j) the amount of wages due to any seaman who enters His Majesty's service during the voyage;

(k) the wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom;

(l) the sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold, and of the sum received for it;

(m) every collision with any other ship, and the circumstances under which the same occurred.

245. Every entry required to be made in log-books shall be signed,—

(a) in case of illness, injury or death, by the master and by the mate or some other member of the crew, and the surgeon or medical practitioner on board, if any;

(b) in case of wages due to or of the sale of the effects of any seaman or apprentice who dies, by the master and by the mate and some other member of the crew;

(c) in case of wages due any seaman who enters His Majesty's service, by the master and by the seaman or by the officer authorized to receive the seaman into such service; and,

(d) in all other cases, by the master and the mate or some other member of the crew.

246. All entries made in any log-book, as hereinbefore directed, shall be received in evidence in any proceeding in any court of justice, subject to all just exceptions.

#### Inquiry into Causes of Death on Board.

247. Whenever any case of death happens on board any Canadian foreign sea-going ship, the shipping master shall, on the arrival of such ship at the port in any of the provinces where the crew is discharged, inquire into the cause of such death; and, if, in the course of such inquiry, it appears to him that any such death has been caused by violence or other improper means, he shall either report the matter to the Minister, or, if the emergency of the case so requires, shall take immediate steps for bringing the offender or offenders to justice.

#### Offences, Penalties and Forfeitures.

248. Every person who,—

(a) knowingly employs any person other than a shipping master or deputy shipping master for the purpose of hiring, engaging, supplying or providing seamen to be entered on board any ship, not being a Canadian home-trade ship or ship in the merchant service of a foreign country to which this part of the provisions thereof does not as to hiring, engaging, supplying or providing seamen to be entered on board thereof, apply; or,

(b) not being a shipping master or deputy shipping master, hires, engages, supplies, or provides a seaman to be entered on board any such ship,—

shall, notwithstanding several seamen are included in the same contract or several seamen are received or permitted to remain at the same time, for each and every seaman hired, engaged, supplied or provided to be entered on board such ship contrary to the provisions of this Part, incur a penalty not exceeding forty dollars for each offence.

249. Every person, other than a shipping master or deputy shipping master, who exacts or receives from the master of any such ship, any sum of money as a reward for procuring, contrary to the provisions of this Part, a seaman to serve on board such ship, shall incur a penalty not exceeding eighty dollars and not less than twenty dollars.

250. Every shipping master or deputy shipping master, and every clerk or servant in any shipping office who demands or receives any remuneration, either directly or indirectly, for hiring or supplying any seaman for any ship, over and above the lawful fees payable under this Part, shall, for every such offence, incur a penalty not exceeding forty dollars, and shall also be liable to be dismissed from his office by the Governor in Council.

251. Every owner, part owner, master, person in charge of any ship, ship's husband or consignee, who knowingly receives or accepts to be entered on board such ship or permits to be remain on board the same, any seaman who has been hired, engaged,

supplied or provided to be entered on board thereof contrary to the provisions of this Part, or who has been engaged or hired to be entered on board any other ship, shall incur a penalty not exceeding forty dollars for each offence, notwithstanding that several seamen are received or accepted to be entered on board such ship or are permitted to remain on board at the same time.

252. Every master or other person belonging to a British merchant ship, who, when duly called upon for the purpose of giving assistance by any shipping master or deputy shipping master appointed under this Part, omits or refuses to give any answer or information concerning reserve men towards carrying into effect the objects of the Act of the Parliament of the United Kingdom, passed in the session held in the twenty-second and twenty-third years of the reign of Her late Majesty Queen Victoria, chaptered forty, which it is in his power to give, shall incur a penalty not exceeding twenty dollars.

253. (a) Every person to whom any boy is bound as an apprentice, who, within seven days after the execution of the indenture, fails to take or transmit such indenture to the shipping master nearest to the residence of the person to whom the boy is bound; or,

(b) The shipping master who fails to cause such indenture to be copied in a book kept in his office and open to public inspection free of any charge, or to indorse on the indenture that it has been so recorded, or to redeliver the same to the master of the apprentice and,

(c) The master of any apprentice, whenever any such indenture is assigned or cancelled, or any such apprentice dies or deserts, who, within thirty days after such assignment, cancellation, death or desertion, if the same happens within Canada, or if the same happens elsewhere, so soon afterwards as circumstances permit, fails to notify the same to the said shipping master;

shall incur a penalty not exceeding forty dollars.

254. The master of every Canadian foreign sea-going ship who, before carrying any apprentice to sea from any place in any of the provinces, fails to cause such apprentice to appear before the shipping master before whom the crew is engaged and to produce the indenture by which such apprentice is bound and the assignment or assignments thereof, if any, and to have the name of the apprentice with the date of the indenture and of the assignments thereof, if any, and the name of the port or ports at which the same has been registered, entered on the indenture, shall, for each offence, incur a penalty not exceeding twenty dollars.

255. The master of every Canadian foreign sea-going ship of which the crew has been engaged before a shipping master in Canada who, before finally leaving Canada, fails to sign and send to the shipping master before whom the crew was engaged, a full and accurate statement of every change which takes place in his crew before finally leaving Canada shall, for each offence, incur a penalty not exceeding twenty dollars.

256. Every master of a ship registered in any of the provinces, of over eighty tons register, exclusively employed in trading between any port or place in any of the provinces and any port or place in any other of the provinces who carries any seaman to sea, apprentices excepted, without entering into an agreement with him in the form and manner, and at the place and time in such case required, shall, for each such offence, incur a penalty not exceeding twenty dollars.

257. If any ship of any tonnage register attempts to go from any port or to sea without complying with all the requirements of this Part, the master of such ship shall incur a penalty not exceeding two hundred dollars.

258. Every person who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, or makes or assists in making, or procures to be made any false entry in, or delivers, assists in delivering, or procures to be delivered, a false copy of any agreement made under this Part, is guilty of an indictable offence.

259. Every master who makes a wilfully false statement in any credible letter intended for use in any proceeding on an allotment note for the recovery of a seaman's wages, to the effect that a seaman has left his ship and has ceased to be entitled to the wages out of which any allotment is to be paid, shall incur a penalty of one hundred dollars.

260. Any master, or owner or consignee of any ship registered in any of the provinces, other than a Canadian home-trade ship, who discharges any seaman belonging thereto, or, except in cases where some competent court otherwise directs, pays the wages of such seaman within any of the provinces otherwise than in the presence of a shipping master, shall incur a penalty not exceeding forty dollars.

261. Every master who, before paying off or discharging any seaman in any of the provinces from a ship registered in any of the provinces, other than a Canadian home-trade ship of less than eighty tons, fails to deliver to such seaman, or, if such seaman is to be discharged before a shipping master, to such shipping master, a full and true account of his wages and of all deductions to be made therefrom shall, for each offence, incur a penalty not exceeding twenty dollars.

262. The master of any ship registered in any of the provinces, other than a Canadian home-trade ship of less than eighty tons, who, upon the discharge in any of the provinces of any seaman belonging to his ship, or upon payment of the wages of any such seaman, if he requires the same, fails to sign and deliver to such seaman a certificate of his discharge in form K, specifying the period of his service and the time and place of his discharge, with a report thereon of the conduct, character and qualifications of the person discharged, during the period he has been in his employment, or stating thereon that he declines to give any opinion upon such particulars or upon any of them, shall, for each such offence, incur a penalty not exceeding forty dollars.

263. Every owner, agent, master, mate or other member of the crew, who, when called upon by the shipping master to produce any log-book, papers or other documents in his possession or power relating to any matter in question in any proceeding as to the wages, claims or discharge of any seaman belonging to any ship registered in any of the provinces, carried on before such shipping master under this Part, or to appear and give evidence, does not produce any such log-book, papers or other document, or does not appear and give evidence, shall, unless he shows a reasonable excuse for such default, incur for each such offence a penalty not exceeding twenty dollars.

264. If any master of a Canadian foreign sea-going ship fails to take charge of the money or other effects of any seaman or apprentice dying during a voyage which was to terminate in any of the provinces, or to make in the log-book the entry thereof, or to procure such attestation to such entries, or to make such payment or delivery of any money, wages or effects of any such seaman or apprentice dying during a voyage, or to give such account in respect thereof as in this Part respectively directed, he shall, for every such offence, incur a penalty not exceeding treble the value of the money or effects not so accounted for, or, if such value is not ascertained, not exceeding two hundred dollars, and, if the owner of the ship fails to account for and pay the same, he shall, in addition to his liability for the said money and value, incur the same penalty.

265. Every master or other person belonging to any Canadian foreign sea-going ship, who wrongfully forces on shore and leaves behind or otherwise wilfully and wrongfully leaves behind in any place on shore or at sea, in or out of His Majesty's dominions, any seaman or apprentice belonging to such ship before the return of the ship to Canada, or the completion of the voyage for which such person was engaged, is guilty of an indictable offence.

266. Every master of a Canadian foreign sea-going ship, who,—

(a) discharges any seaman or apprentice in any place situate in the United Kingdom or in any British possession other than Canada, without previously obtaining the sanction in writing of a public shipping master or other officer duly appointed by the Government in that behalf, or, in the absence of such functionary, of the chief officer of Customs resident at or near the place where the discharge takes place and without having such sanction endorsed on the agreement; or,

(b) discharges any seaman or apprentice at any place out of His Majesty's dominions without previously obtaining the sanction so endorsed as aforesaid of the British consular officer there, or, in his absence, of two respectable merchants resident there; or,

(c) leaves behind any seaman or apprentice at any place situate in the United Kingdom or in any British possession other than Canada, on any ground whatsoever, without previously obtaining a certificate in writing so endorsed as aforesaid from such officer or person as aforesaid, stating the fact and the cause thereof, whether such cause is unfitness or inability to proceed to sea, or desertion or disappearance; or,

(d) leaves behind any seaman or apprentice at any place out of His Majesty's dominions, on shore or at sea, on any ground whatsoever, without previously obtaining the certificate endorsed in the manner and to the effect last aforesaid of the British consular officer there, or, in his absence, of two respectable merchants, if there are any at or near the place where the ship then is, is guilty of an indictable offence.

267. Upon the trial of any information, indictment or other proceeding against any person for discharging or leaving behind any seaman or apprentice contrary to the provisions of this Part, it shall lie upon such person either to produce the sanction or certificate hereby required by this Part in that behalf, or to prove that he had obtained the same previously to having discharged or left behind such seaman or apprentice, or that it was impracticable for him to obtain such sanction or certificate.

268. Every master of a Canadian foreign sea-going ship who refuses or neglects to deliver a full account of the wages due to any seaman or apprentice left on shore at any place out of Canada, under a certificate of his unfitness or inability to proceed on the voyage, and to pay the amount thereof in money or by bill as by this Part required, shall, for every such offence or default, be liable, in addition to the payment of the wages, to a penalty not exceeding forty dollars.

(2) Every such master who delivers a false account of such wages shall, for every such offence, be liable, in addition to the payment of wages, to a penalty not exceeding eighty dollars.

269. Every master of any ship registered in any of the provinces who, upon it being signified to him by any officer in command of any of His Majesty's ships, or any shipping master in Canada, on any examination made in that behalf, that the provisions or water for the use of the crew are of bad quality, unfit for use or deficient in quantity, does not thereupon provide other provisions or water or, in case of deficiency, procure the requisite quantity of any such provisions or water, or uses any provisions or water which have been signified as aforesaid to be of bad quality and unfit for use, shall, in every such case; incur a penalty not exceeding eighty dollars.

270. Every master of a ship registered in any of the provinces who fails to keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out, or to allow the same to be used at the time of serving out such provisions and articles, in the presence of a witness, whenever any dispute arises about such quantities, shall, for every such offence, incur a penalty not exceeding forty dollars.

271. If, in any respect except as aforesaid, the provisions of this Part relating to accommodation for seamen and apprentices on board Canadian foreign sea-going ships are not observed with respect to any place in any such ship, the owner shall be deemed to be in fault, and shall, for every failure to comply with such provisions, incur a penalty not exceeding eighty dollars.

272. Every master of any ship registered in any of the provinces who, upon statement to him made by any seaman or apprentice whilst on board such ship, in any of the provinces that he desires to make complaint to a justice of the peace, or naval officer in command of any of His Majesty's ships, against such master or any of the crew, fails,—

(a) if the ship is then at a place where there is any such justice or any such officer as aforesaid, as soon as the service of the ship will permit; or,

(b) if the ship is not then at such a place, so soon after her first arrival at such a place in any of the provinces as the service of the ship will permit; to allow such seaman or apprentice to go ashore or send him ashore in proper custody, so that he may be enabled to make such complaint, shall incur a penalty not exceeding forty dollars.

273. Every person who demands and receives of and from any seaman or apprentice belonging to any ship registered in any of the provinces payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided and boarded therein, shall incur a penalty not exceeding forty dollars.

274. Every person who receives or takes into his possession or under his control any moneys, documents or effects of any seaman or apprentice belonging to any ship registered in any of the provinces, and does not return the same, or pay the value thereof when required so to do by such seaman or apprentice, after deducting therefrom what is justly due and owing in respect of the board and lodging of such seaman or apprentice, or who absconds therewith, shall incur a penalty not exceeding forty dollars over and above the amount or value of such moneys, documents or effects, after such deductions as aforesaid, to be forthwith paid to such seaman.

279. Every person who being on board any ship at any time after her arrival from sea at any port in any of the provinces, solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or who takes from and out of such ship any chest, bedding or other effects of any seaman without the permission of the master or person in charge of such ship, shall, for every such offence, be liable, on summary conviction, to imprisonment with hard labour for a term not exceeding ninety days and not less than sixty days.

280. Every master of any Canadian foreign sea-going ship who, during the progress of a voyage is superseded in any of the provinces, or, for any other reason, quits the ship, and is succeeded in the command by some other person, shall, if he fails to deliver to his successor the certificate of registry and the various documents relating to the navigation of the ship and to the crew thereof which are in his custody, incur a penalty not exceeding four hundred dollars.

281. The master of any Canadian foreign sea-going ship on which a log-book is not kept in the manner required by this Part, or in which, if kept, any entry in this Part directed to be made in such log-book is not made at the time and in the manner by this Part directed, shall, for each such offence, incur the specific penalty in this Part mentioned in respect thereof, and, where there is no specific penalty, a penalty not exceeding twenty dollars.

282. Every person who makes or procures to be made, or assists in making any entry in any log-book in respect of any occurrence happening previously to the arrival of the ship at the final port of discharge in any of the provinces more than twenty-four hours after such arrival shall, for each such offence, incur a penalty not exceeding one hundred dollars.

283. Every person who wilfully destroys or mutilates or renders illegible any entry, or makes any false entry or omission in any such log-book, is guilty of an indictable offence.

284. The master or keeper of any tavern or house of public entertainment, or house of ill-fame or any other house who refuses or neglects to comply, within the time specified therein, with any order in writing of any justice of the peace, made under the authority of this Part, commanding him to furnish such justice of the peace with a correct list of every person lodged or harboured in his house, stating his name and surname as far as known to such master or keeper of such tavern or other house of public entertainment or house of ill-fame, how long he has lodged in the said house, and the name of the ship on board whereof he has declared himself to have arrived at the port or place, or, who knowingly delivers a false account of any such person, shall incur a penalty of forty dollars for each such offence.

285. Any person being in or having charge of any tavern, inn, ale-house, beer-house, seaman's boarding-house or other house or place of entertainment, house of ill-fame, shop or other place wherein liquors or refreshments are sold or reputed to be sold, whether legally or illegally, who refuses, or, after due demand, fails to admit into the same, or offers any obstruction to his admission thereto, any police officer or constable required under the provisions of this Part to give assistance to the master or any mate, or the owner, ship's husband or consignee of any ship in apprehending with or without a warrant any seaman or apprentice duly engaged to serve in such ship and neglecting or refusing to proceed to sea therein, or found otherwise absenting himself therefrom without leave, shall for every such offence, incur a penalty not exceeding fifty dollars and not less than ten dollars.

#### Discipline.

286. Every master of, or any seaman or apprentice belonging to, any ship registered in any of the provinces, who by wilful breach of duty, or by neglect of duty, or by reason or drunkenness, does any act tending to immediate loss, destruction or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb is guilty of an indictable offence.

287. If a seaman or apprentice lawfully engaged or bound to any ship, registered in any of the provinces at the time of the offence, commits any of the following offences, he shall be liable, on summary conviction. 1907, c. 46, s. 1.

(a) for desertion, to imprisonment for any term not exceeding twelve weeks and not less than eight weeks with hard labour, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned; and, if such desertion takes place abroad, at the discretion of the court, to forfeit all or any part of the wages or emoluments he earns in any other ship in which he is employed until his next return to any of the provinces, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him;

(b) for neglecting or refusing, without reasonable cause, to join his ship or to proceed to sea, or on any voyage in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason, from the ship or from his duty not amounting to desertion or not treated as such by the master, to imprisonment for any term not exceeding ten weeks and not less than four weeks, with or without hard labour, and also, in the discretion of the court, to forfeit out of his wages a sum not exceeding the amount of two days' pay, and, in addition for every twenty-four hours of absence, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute;

(c) for quitting the ship without leave after her arrival in her port of delivery, and before she is placed in security, to forfeit out of his wages a sum not exceeding one month's pay;

(d) for wilful disobedience to any lawful command, to imprisonment for any term not exceeding four weeks and not less than two weeks, with or without hard labour; and also, in the discretion of the court, to forfeit out of his wages a sum not exceeding two days' pay;

(e) for continued wilful disobedience to lawful commands or continued wilful neglect of duty, to imprisonment for any term not exceeding twelve weeks and not less than four weeks, with or without hard labour; and also, at the discretion of the

court, to forfeit for every twenty-four hours continuance of such disobedience or neglect, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute;

(f) for assaulting any master or mate, to imprisonment for any term not exceeding twelve weeks and not less than six weeks, with hard labour;

(g) for combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede navigation of the ship or the progress of the voyage, to imprisonment with hard labour for any term not exceeding twelve weeks and not less than six weeks;

(h) for wilfully damaging the ship or embezzling or wilfully damaging any of her stores or cargo, to forfeit out of his wages a sum equal in value to the loss thereby sustained, and also, at the discretion of the court, to imprisonment with hard labour for any term not exceeding twelve weeks and not less than six weeks;

(i) for any act of smuggling of which he is convicted and whereby loss or damage is occasioned to the master or owner, to pay to such master or owner such sum as is sufficient to reimburse the master or owner for such loss or damage; and to have the whole or a proportionate part of his wages retained in satisfaction or on account of such liability, without prejudice to any further remedy.

288. Upon the commission of any of the offences enumerated in the last preceding section, an entry thereof shall be made in the log-book, and shall be signed by the master and also by the mate or one of the crew.

(2) The offender, if he is still in the ship, shall, before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit and a statement that a copy of the said entry has been so furnished, or that the same has been so read over, and the reply, if any, made by the offender shall likewise be entered and signed in manner aforesaid.

(3) In any legal proceeding, such entries shall, if practicable, be produced or proved, and, in default of such production or proof, the court hearing the case may, in its discretion, refuse to receive evidence of the offence.

289. Every seafaring person whom the master of any Canadian foreign sea-going ship is, under the authority of any Act of the Parliament of the United Kingdom or of any Act of the Parliament of Canada, compelled to take on board and convey, and every person who goes to sea in any such ship without the consent of the master or owner or other person entitled to give such consent shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he was a member of the crew and had signed the agreement.

290. Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to proceed to sea in any ship registered in any of the provinces in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband or consignee may in any place in any of the provinces, with or without the assistance of the local police officers or constables, who shall give such assistance if required, arrest him without first procuring a warrant; and may thereupon, in any case, and shall, in case such seaman so requires, and it is practicable, convey him before some court capable of taking cognizance of the matter, to be dealt with according to law; and may for the purpose of conveying him before such court, detain him in custody for a period not exceeding twenty-four hours, or, if he does not so require, or if there is no such court at or near the place, at once convey him on board.

(2) If any such arrest appears to the court before which the case is brought to have been made on improper or insufficient grounds, the master, mate, owner, ship's husband, or consignee who makes the same or causes the same to be made shall incur a penalty not exceeding eighty dollars.

(3) Such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such arrest.

291. Whenever any seaman or apprentice belonging to any ship registered in any of the provinces is brought before any court in any of the provinces, on the ground of his having neglected or refused to join or proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such court may, if the master or owner or his agents so requires, instead of committing the offender to prison, cause him to proceed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship or the owner or his agent, to be by him so conveyed, and may, in such case, order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence, to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned, or which, by virtue of his then existing engagement, he may afterwards earn.



292. If any seaman or apprentice is imprisoned in any of the provinces on the ground of his having neglected or refused to join or to proceed to sea in any ship registered in any of the provinces in which he is engaged to serve, or of his having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and, if, during such imprisonment and before his engagement is at an end, his services are required on board his ship, any justice may, at the request of the master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by him so conveyed, notwithstanding that the period for which he was sentenced to imprisonment has not terminated.

293. Whenever a question arises in any of the provinces whether the wages of any seaman or apprentice, belonging to any ship registered in any of the provinces, are forfeited for desertion, it shall be sufficient for the person insisting on the forfeiture to show that such seaman or apprentice was duly engaged in or that he belonged to the ship from which he is alleged to have deserted, and he quitted such ship before the completion of the voyage or engagement, and that an entry of the desertion has been duly made in the log-book; and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge, or can show otherwise to the satisfaction of the court that he had sufficient reasons for leaving the ship.

294. Whenever, in any proceeding in any of the provinces relating to seamen's wages, it is shown that any seaman or apprentice belonging to any ship registered in any of the provinces has, in the course of the voyage, been convicted of any offence by any competent tribunal, and rightfully punished therefor by imprisonment or otherwise, the court hearing the case may direct a part of the wages due to such seaman or apprentice, not exceeding twelve dollars, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction or punishment.

295. Whenever any seaman belonging to any ship registered in any of the provinces contracts for wages by the voyage or by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Part shall, in fixing the same, be taken to be an amount bearing the same proportion to the whole wages or share as a month or such other stated period of time, as the case may be, bears to the whole time spent in the voyage; and, if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

296. All clothes, effects, wages and emoluments which, under this Part, are forfeited for desertion shall be applied in the first instance in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place; and such wages or emoluments may, if earned subsequently to the desertion, be recovered by such master, or by the owner or his agent, in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages the court may order the same to be paid accordingly, subject to such reimbursement.

(2) Such wages, when so recovered, shall be paid to the Minister of Finance, to form part of the Consolidated Revenue Fund of Canada.

(3) In all cases of forfeiture of wages under this Part other than for desertion, the forfeiture shall, in the absence of any specific directions to the contrary, inure to the benefit of the master or owner by whom the wages are payable.

297. Any question concerning the forfeiture of or deductions from the wages of any seaman or apprentice belonging to any ship registered in any of the provinces may be determined in any proceeding, in any of the provinces, lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as by forfeiture, has not been made the subject of any criminal proceeding.

298. If any seaman, on or before being engaged in any of the provinces in any ship registered in any of the provinces wilfully and fraudulently makes a false statement of the name of his last ship or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding twenty dollars; and such penalty may be deducted from any wages he earns by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses, if any, occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Part.

299. Whenever any seaman belonging to any Canadian foreign sea-going ship commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the log-book, and a copy of such entry shall be furnished, or the same shall be read over to the

offender; and an entry of such reading over, and the reply, if any, made by the offender, shall be made in the manner and subject to the conditions specified in this Part with respect to the offences against discipline specified in and punishable under this Part.

300. The master or owner of every ship shall, if the offender is discharged in Canada, and the offences and such entries in respect thereof as aforesaid are proved to the satisfaction of the shipping master before whom the offender is discharged, deduct such fine from the wages of the offender, and pay the same over to such shipping master; and if, before the final discharge in Canada of the crew of any such ship, any such offender has entered into any of His Majesty's ships, or has been discharged abroad, and the offence and such entries have been proved to the satisfaction of the officer in command of the ship into which he so enters, or of the consular officer, officer of Customs or other person by whose sanction he has been so discharged, and the fine has thereupon been deducted as aforesaid, and an entry of such deduction has then been made in the log-book, if any, and signed by such officer or other person, under the provisions of the Merchant Shipping Act, 1894, then, on return of the ship to Canada, pay over such fine to the shipping master before whom the crew is discharged.

(2) Every master or owner who neglects or refuses to pay over any such fine in manner aforesaid, shall, for each offence, incur a penalty not exceeding six times the amount of the fine retained by him.

(3) No act of misconduct for which any such fine has been inflicted and paid shall be otherwise punished under the provisions of this Part.

#### Enticing to desert and harbouring Deserters.

301. Every person who, by any means whatsoever, persuades or attempts to persuade any seaman or apprentice belonging to any ship to neglect or refuse to join or to proceed to sea in or to desert from his ship, or to absent himself from his duty, shall be liable, for the first offence, to imprisonment with hard labour for a term not exceeding six months, and not less than three months; and for any subsequent offence, to imprisonment, with hard labour, for a term not exceeding twelve months and not less than six months.

302. Every person, who wilfully harbours or secretes any such seaman or apprentice, knowing or having reason to believe that such seaman or apprentice has deserted from or wilfully neglected or refused to join his ship shall be liable to imprisonment with hard labour for a term not exceeding six months and not less than three months, and, for any subsequent offence, for a term not exceeding twelve months and not less than six months.

#### Punishment of Stowaways.

303. Every person who secretes himself, and goes to sea in any ship registered in any of the provinces without the consent of either the owner, consignee or master, or of a mate, or of any other person in charge of such ship, or of any other person entitled to give such consent, shall be liable to a penalty not exceeding eighty dollars, or to imprisonment, with or without hard labour, for any term not exceeding four weeks.

#### Procedure.

304. No conviction for any offence shall be made in any summary proceeding under this Part, unless such proceeding is commenced,—

(a) within six months after the commission of the offence; or,  
(b) if both or either of the parties to such proceeding are during such six months, out of the provinces, or not within the jurisdiction of any court capable of dealing with the case, then within two months after they both first shall be at one time within any of the provinces, or within such jurisdiction.

305. No order for the payment of money shall be made in any summary proceeding under this Part, unless such proceeding is commenced,—

(a) within six months after the cause of complaint arises or,  
(b) if both or either of the parties are, during such time, out of the provinces, then within six months after they both first shall be at one time within any of the said provinces.

306. Any judge of the Superior Court of the province of Quebec, judge of the sessions of the peace, judge of a county court, police magistrate or stipendiary magistrate shall, for the purposes of all proceedings under this Part, have all the powers of two justices of the peace under the Criminal Code, and may try and determine in a summary way all offences punishable under this Part, whether by fine, penalty or imprisonment, or by both fine or penalty and imprisonment.

(2) Any two justices of the peace shall have the like jurisdiction.

307. All the provisions of Part XV. of the Criminal Code respecting summary proceedings shall apply to and govern proceedings against any person for any offence under this Part.



308. In all cases of complaints made by or on behalf of any seaman under this Part, such seaman shall, in any case where he has been examined, receive such part of any penalty imposed as the judge, magistrate or justices before whom the case is heard adjudges him to receive for any moneys or effects which appear to have been deposited by him with any such offender as aforesaid.

309. All penalties imposed by this Part may be recovered with costs, and shall be paid over to the Minister of Finance to be disposed of as the Governor in Council directs, except such part of any penalty as a judge, magistrate or justices before whom the case is heard adjudges to any seaman.

(2) Such penalties, shall, in case of non-payment, be levied by distress and sale of the offender's goods and chattels by warrant under the hand and seal of the convicting judge, magistrate or justices directed to a constable or other peace officer.

(3) The overplus, if any, after deducting the penalty and costs of suit, together with the expenses of the distress and sale, shall be returned to the owner.

(4) For want of sufficient distress, the offender shall be committed for a term not exceeding six months by warrant, under the hand and seal of the judge, magistrate or justices to the common gaol of the locality, or, if there is no common gaol there, then to that common gaol which is nearest to that locality.

310. There shall be no appeal from any conviction or order adjudged or made under this Part, for any offence against this Part; and no conviction under this Part shall be quashed for want of form.

311. No warrant of commitment under this Part shall be held void by reason of any defect therein, if it is therein alleged that the person has been convicted, and there is a good and valid conviction to sustain the same.

312. The proceedings upon any conviction or order shall not be stayed, by reason of any application to remove such conviction or order to a superior court or of any notice of such application, unless the court or judge to whom the application is made or is to be made shall order such stay of proceedings upon special cause shown.

313. In case no judge, having jurisdiction in respect of writs of certiorari, is resident at or near the place where any conviction or order is made, a county court judge of the county or district wherein such place is situate, shall have power to hear and determine any application for a stay of proceedings upon such conviction or order.

314. Any justice of the peace at any port or place in any of the provinces, on complaint before him on oath that any seaman or apprentice in the sea service is concealed or secreted in any dwelling-house or out-house, or on board of any ship or elsewhere, shall grant a warrant, under his hand and seal, addressed to a constable or constables there, commanding him or them to make diligent and immediate search, in or about such dwelling-house or out-house, or on board such ship, or in such other place or places as are specified in the warrant, and to bring before him every such seaman or apprentice found concealed, whether named in the warrant or not.

315. Any justice of the peace, at any port or place in any of the provinces, on information before him under oath that any seaman or other person has deserted, or is suspected of having deserted from any of His Majesty's ships or from any ship in the merchant service, and is lodged or harboured in any tavern or house of public entertainment, or in any house of ill-fame or in any other house, may issue an order in writing to the master or keeper of such tavern, house of public entertainment, house of ill-fame or other house, commanding such master or keeper to furnish him with a correct list of every such person, stating,—

(a) his name and surname, as far as is known to such master or keeper of such tavern or other house of public entertainment or house of ill-fame;

(b) how long he has lodged in the said house; and,

(c) the name of the ship on board whereof he has declared himself to have arrived at the port or place.

316. Whenever the person giving such information on oath seeks to obtain such order against any person who is not a master or keeper of such tavern or house of public entertainment or house of ill-fame, such order shall not be given by any justice of the peace unless the person giving the information deposes on oath that he verily believes,—

(a) that such person, not so being master or keeper of such tavern or house of entertainment or house of ill-fame, then harbours or conceals such deserter or person suspected of desertion; and,

(b) knows that the person who has so deserted is unlawfully and improperly absenting himself from his duty on board the vessel to which he belongs.

317. Every constable and officer, not being a paid policeman, employed in the execution of any warrant for the apprehension of, or in search of, or for the delivery of any person against whom a warrant is issued by virtue of the foregoing sections of this Part, may demand from the person at whose request such warrant was issued, a reasonable recompense for the time he has been employed, subject to be taxed by the justice of the peace who issued such warrant.

(2) In cases within the jurisdiction of the Exchequer Court on its Admiralty side, such recompense shall be taxed according to the legal procedure of that court.

(3) On refusal of payment, such recompense shall be recoverable in a summary way by warrant of distress and sale of such person's goods and chattels, which warrant every such justice of the peace shall grant under his hand and seal, on proof of such refusal of payment.

318. In any proceeding before any court under this Part, if an application is made on behalf of the defendant or of the prosecutor, upon sufficient cause, to adjourn the case to a future day, the court, in its discretion, may receive and may cause to be reduced to writing the evidence of such witnesses for the defence or for the prosecution as are then present or can be produced, and may thereupon discharge such witnesses from further attendance, and may continue the case for the completion of the trial thereof to such further day as such court appoints for that purpose.

319. The examination of any seaman liable to be obliged to leave the province in which any offence against this Part is prosecuted, or of any witness sick, infirm or about to leave such province, may be taken *de bene esse* before any commissioner or other proper authority, in the like manner as depositions in civil cases are taken.

320. Any police officer or constable required under this Part to give assistance to the master or any mate, or the owner, ship's husband or consignee of any ship in apprehending, with or without a warrant, any seaman or apprentice duly engaged to serve in such ship and neglecting or refusing to proceed to sea therein, or found otherwise absenting himself therefrom without leave, may, at any time, enter into any tavern, inn, ale-house, beer-house, seaman's boarding-house or other house or place of entertainment, or into any shop or other place wherein liquors or refreshments are sold or reputed to be sold, whether legally or illegally, or into any house of ill-fame.

321. Nothing in this Part shall authorize or justify the execution of any warrant or process of justices of the peace within the jurisdiction of the Exchequer Court on its Admiralty side in any of the provinces, unless such execution has been previously authorized by the judge or a local judge of such court having jurisdiction within the province.

#### Foreign Ships.

322. The foregoing provisions of this Part relating to the shipping of seamen shall extend and apply to ships in the merchant service of every foreign country, and to all persons in relation to such ships in the same manner as the same extend and apply to ships in the British merchant service, and to similar persons in relation to such last-mentioned ships, unless there is something in the terms of some existing treaty between His Majesty and such foreign country to prevent the said provisions or any of them from so extending and applying.

323. In so far as is consistent with the provisions of any Act of the Parliament of the United Kingdom in force in Canada, and with the terms of existing treaties between His Majesty and foreign powers respectively, and the rights, privileges and immunities secured to the consuls, vice-consuls, commercial and other duly accredited agents, subjects and citizens of such foreign powers respectively, the foregoing provisions of this Part relating to desertion of seamen and apprentices shall extend and apply to ships in the merchant service of foreign countries and to all persons in relation to such ships, in the same manner as the same extend and apply to ships in the British merchant service, and to similar persons in relation to such last-mentioned ships.

324. The oath of the master of any such foreign merchant ship, or of any officer or person employed on board thereof, or on board any other ship of the same country that, to the best of his belief and understanding, any seaman or other person is bound to serve on board such ship, according to the law of the country to which such ship belongs, or of the place where such seaman or other person was hired, shall be *prima facie* evidence that he is legally bound to serve on board such ship within the meaning of this Part, although he has not regularly entered into or signed articles of agreement, and is not bound by articles of indenture in the manner required by law with regard to seamen and others engaged or bound to serve on board British ships.

325. No judge, magistrate or justice of the peace shall,—

(a) entertain or act upon any complaint or information under this Part, by or against any person belonging to or connected with any such foreign merchant ship, who is not a subject of His Majesty; or,

(b) exercise jurisdiction under this Part over or at the instance of any such person; without the consent of both parties to such complaint or information, or the consent in writing of the consul, vice-consul, or commercial or other duly accredited agent of the country to which such ship belongs, unless the parties to such complaint or information are subjects or citizens of a country or countries by the terms of treaties in force between His Majesty's Government and the government or governments of which country or countries it is stipulated that the assistance of British courts and magistrates shall be granted to the subjects or citizens of such countries, or one of such parties is a subject or citizen of any such country, and the other is a subject of His Majesty.

### Seamen on Inland Waters.

[Chapter 113, sections 326-380 inclusive, deals with the shipping of seamen on inland waters. As the provisions contained in these sections appear without any substantial differences in sections 152-154, 157, 159-163, 183-195, 242, 256, 258, 263, 280, 285-287, 290-298, 301-302, 304-307, 309-311, 314, and 320 above, the text of sections 326-380 inclusive is not reproduced.]

### Sick and Distressed Mariners.

Chapter 113.—381. In this Part, unless the context otherwise requires,—

(a) 'sick mariner' includes any master, mate, engineer, seaman, sailor, steward, fireman or other person employed on board of any vessel on which duty has been paid under this Part, who from sickness, accident or any other cause, is in need of medical or surgical assistance and treatment;

(b) 'Sick Mariners' Fund' means the fund in the Department of the Minister of Finance, formed of all duties levied under this Part and paid to him.

### Hospital.

332. The Governor in Council may, from time to time, designate and appoint any hospital in Canada receiving aid from the public funds of Canada, but not for any longer period than such hospital continues to receive such aid, to be, during pleasure, an hospital for the reception, care and medical or surgical treatment, or both, of sick mariners under this Part.

333. The Governor in Council may, from time to time, with the consent of the governors, trustees, directors or other persons having the control and management of any hospital not receiving aid from the public funds of Canada, designate and appoint such hospital to be, during pleasure, an hospital for the reception, care and medical or surgical treatment, or both, of sick mariners under this Part.

### Duty on Ships.

334. There shall be levied and collected on every ship arriving in any port in the provinces of Quebec, Nova Scotia, New Brunswick, Prince Edward Island or British Columbia, a duty, of two cents for every ton which such ship measures, registered tonnage.

337. The moneys so received shall be paid by such collector or chief officer to the Minister of Finance, and shall form the Sick Mariners' Fund, for the purposes of this Part, and for no other purposes.

338. Ships of the burthen of one hundred tons or less, shall be liable to the payment of the said duty once in each year, but not oftener.

(2) Ships of the burthen of more than one hundred tons register, shall be liable to the payment of the said duty three times in one year, but not oftener.

339. No ship which is not registered in Canada, and which is employed exclusively in fishing or on a fishing voyage shall be subject to the payment of or shall pay any duty imposed under this Part.

332. The master or person in charge of any fishing ship registered in Canada may pay in any year such duty in respect to such ship before leaving on a fishing voyage at its first port of outfit in respect to such voyage.

### Rights of Seamen of Ships paying the Duty.

334. The master or person in command of any ship paying such duty may send to the marine hospital at Quebec, or to the marine or seamen's hospital at or for any other port in any of the provinces aforesaid, or to any hospital so designated and appointed as aforesaid, at any hour of the day, and, in case of accident or emergency, at any hour of the night, any sick mariner belonging to his ship.

(2) Such sick mariner so sent with a written recommendation from such master or person in command of such ship, endorsed as approved by the collector of the Customs at the port, or other officer appointed for the purpose by the Minister, shall be gratuitously received into such hospital, and receive therein such medical and surgical attendance and such other treatment as the case requires, so long as the same is required.

335. At any port at which such duty is received, and at or for which there is no marine or seamen's hospital, or other hospital so designated and appointed as aforesaid, the collector or other chief officer of the Customs, upon being required so to do at any hour of the day, and, in case of accident or emergency, at any hour of the night, by the master or person in command of any ship paying such duty at such port, shall make without delay the best provision in his power for the medical and surgical assistance and treatment of every sick mariner belonging to such ship at the nearest public hospital if there is one at a safe and convenient distance, and, if not, then at some public or private house.

396. The master or person in charge of any fishing ship of the burthen of one hundred tons registered tonnage or less, registered in Canada, on which such duty in respect to such ship has been paid, and the mariners employed thereon shall be entitled, if they are sick, to the rights and benefits conferred by this Part on seamen of ships paying duty, in any port where there is a collector of Customs, during any year for which such duty has been paid.

(2) If such ship is of the burthen of more than one hundred tons registered tonnage, such payment shall entitle to the said rights and benefits only the master and mariners employed upon the voyage in respect of which such payment has been made; but the payment of the said duty three times in any calendar year in respect of such ship, shall entitle the master and mariners thereof to the said rights and benefits during the remainder of such year in any such port.

#### Payment of Expenses.

397. The Governor in Council may, from time to time, out of the sick mariners' fund, pay to the collector or chief officer of the Customs, at any port at which such duty as aforesaid is received, and at or for which there is no marine or seamen's hospital designated and appointed under this Part, such sums of money as such collector or other chief officer of the Customs from time to time proves, to his satisfaction, that he has lawfully and in good faith expended or become liable for on account of any provisions under this Part, for medical or surgical assistance or treatment of sick mariners.

398. The Governor in Council may, by warrant under his hand, pay, from time to time, for the purpose of this Part, out of the sick mariners' fund, to the managers or directors of the marine hospital at Quebec, and to the managers or directors of any hospital designated and appointed as hereinbefore provided, for the reception, care and medical or surgical treatment or both of sick mariners under this Part, but not exclusively devoted to that purpose, such sum or sums as he deems a reasonable compensation for the care and treatment of the sick mariners sent to such hospital.

399. The Governor in Council may, whenever he deems it necessary, appropriate from the sick mariners' fund such sums as he deems requisite towards the temporary relief, in such manner as he deems advisable, of shipwrecked, destitute or otherwise distressed seamen not entitled to relief under any of the provisions of the Merchant Shipping Act, 1894.

400. Any shipwrecked, destitute or otherwise, distressed seamen may, by authority from the Minister, be temporarily boarded and lodged and taken care of at any marine or seamen's hospital devoted exclusively to the reception, care and treatment of sick mariners.

401. All expenses incurred in any one of the provinces aforesaid, for the care and medical and surgical treatment of sick mariners including the cost of the maintenance and support of marine and seamen's hospitals, devoted exclusively to such purposes, shall be defrayed out of the sick mariners' fund.

402. The Governor in Council shall appoint the superintendents and other officers of such hospitals and shall from time to time fix their salaries or remuneration.

#### Mariners of Ships exempted from Duty.

403. No sick mariners belonging to ships exempted from or not paying the duty levied under this Part shall be entitled to rights or benefits of sick mariners under this Part.

(2) No mariner belonging to any such ship shall be gratuitously received and treated in any hospital designated and appointed under this Part, nor shall any provision be made by any collector or other chief officer of Customs for their medical or surgical care or treatment in any other hospital or house, out of any money collected under this Part, unless by the special authority of the Minister.

#### Duties and Powers of the Minister.

406. Subject to the approval of the Governor in Council, the Minister shall have the management of all marine and seamen's hospitals and pest houses for the use of sick mariners, and may renew leases of lands on which any such hospitals or pest houses are erected, and may make all necessary contracts for repairing and maintaining the same, and for the cure, care, attendance and support of the patients therein, and may also make such regulations as he deems advisable for the government of the same, for regulating the visiting of seamen ill of any infectious diseases, and for their removal to any pest house or other building.

(2) Until proper buildings are erected at the several ports, the Minister may hire and make use of any building which is convenient for the purposes aforesaid, or any of them.

407. The Minister shall make an annual report and statement to the Governor General of the receipts and expenditures under this Part, to be laid before Parliament within the first fifteen days of the next session thereof.

408. All marine and seamen's hospitals, devoted exclusively to the reception, care and treatment of sick mariners, shall be vested in His Majesty, and under the exclusive control and management of the Minister.

### Pilotage—Licensing of Pilots—Apprentices, etc.

[Chapter 113, sections 411-432 inclusive, defines the limits of the pilotage districts of Quebec, Montreal, Halifax and St. John, and designates the pilotage authorities for each of the said districts. Section 433 sets forth the general powers of pilotage authorities as follows:—]

433. Subject to the provisions of this Part, or of any Act for the time being in force in its pilotage district, every pilotage authority shall, within its district, have power, from time to time, by by-law confirmed by the Governor in Council, to,—

(a) determine the qualification in respect of age, time of service, skill, character and otherwise required of persons applying to be licensed as pilots;

(b) make regulations respecting the approval, licensing, management and maintenance of pilot boats, and respecting the distribution of the earnings of pilots and pilot boats, and to require that decked pilot boats be provided with life boats to be used in conveying pilots to and from ships, and also with such numbers of life preservers as such pilotage authority deems advisable;

(c) provide for aiding in the establishment of and participating in the profits of companies for the support of pilot boats;

(d) license pilots and, except in the pilotage district of Quebec, apprentices, and, except in the pilotage districts of Quebec, Montreal, Halifax and St. John, grant certificates to masters and mates to act as pilots, as hereinafter provided;

(e) fix the terms and conditions of granting licenses to pilots and, except in the pilotage district of Quebec, apprentices, and, except in the pilotage districts of Quebec, Montreal, Halifax and St. John, the terms and conditions of granting such pilotage certificates, as are in this Part mentioned, to masters and mates, and the fees payable for such licenses and certificates and to regulate the number of pilots;

(f) make regulations for the government of the pilots, and the masters and mates, if any, holding certificates from such pilotage authority, and for ensuring their good conduct and constant attendance to and effectual performance of their duty on board and on shore, and for the government of apprentices, and, elsewhere than in the pilotage district of Quebec, regulating the number of apprentices;

(g) make rules for punishing any breach of such regulations by the withdrawal or suspension of the license or certificate of the person guilty of such breach;

(h) fix and alter the mode of remunerating the pilots licensed by such authority, and the amount and description of such remuneration, and the person or authority to whom the same shall be paid subject to the limitation respecting the pilotage district of Quebec in the next following section contained;

(i) provide for the compulsory retirement of pilots who have attained the age of sixty-five years, subject to the provisions of this Part for granting to such pilot a new license;

(j) provide for the compulsory retirement of licensed pilots who have not attained the age of sixty-five years, proved on oath before the pilotage authority to be incapacitated by mental or bodily infirmity or by habits of drunkenness;

(k) provide for the adjustment and decision of questions and disputes arising between masters of ships, pilots and others, respecting pilotage;

(l) establish, elsewhere than in the pilotage districts of Quebec and Montreal, either alone or in conjunction with any other pilotage authority or authorities, funds for the relief of superannuated or infirm licensed pilots, or of their wives, widows or children, and, in any pilotage district, to make any new regulations with respect to any funds for the time being applicable to such purposes or any of them, to determine the persons in the service of such pilotage authority by and upon whom and the amount, manner and time by and upon whom in and at which the contributions in support of such existing or future funds may be made or levied: Provided that no such contribution to any such fund shall be so made or levied by or upon any pilot to any amount exceeding seven per centum of his earnings;

(m) determine what persons, or class of persons, among the men in the service of such pilotage authority, their wives, widows or children, are or are not respectively entitled to participate in the benefits of such existing or future funds, and the terms and conditions upon which they are so entitled;

(n) repeal or alter any by-law made in exercise of the powers of this section, or touching any of the matters enumerated in this section in force, in and for its district, and to make a new by-law or by-laws in lieu thereof.

[Section 434 provides that the rates of pilotage in force for or below Quebec shall not be altered unless the net income of each member of the Quebec Pilots Corporation falls below six hundred dollars on an average for three consecutive years, when it shall be the

duty of the Minister to submit for the approval of the Governor in Council a by-law establishing such increased rates as are deemed necessary to secure to each pilot an average annual net income of six hundred dollars. Section 435 empowers the Minister to make provision for granting a second-class pilotage license in the district of Montreal to apprentices competent to perform a limited class of pilotage duties.]

#### Returns by Pilotage Authorities.

441. Every pilotage authority shall, on or before the tenth day of January in every year, transmit to the Minister, in such form as he requires, pilotage returns containing particulars with regard to pilotage within its district, made up to the thirty-first day of December previous, with regard to,—

(a) the name and age of every pilot, apprentice, master or mate licensed, certificated or authorized to act by such authority, and of every pilot or apprentice acting either mediately or immediately under such authority, whether so licensed or authorized, or not;

(b) the service for which each pilot, apprentice, master or mate is licensed or certificated;

(c) the rates of pilotage dues for the time being in force, including therein the amounts and description of all charges upon shipping made in respect of pilotage;

(d) the total amount received for pilotage dues, distinguishing the amounts received from British ships and from foreign ships, and the amount received in respect of different classes of ships paying different rates of pilotage dues for the time being in force, and the amounts received for the several classes of service rendered by pilots;

(e) the receipt and expenditure of all moneys received by or on behalf of such authority, in respect of pilots or pilotage; and,

(f) such other particulars as the Minister, from time to time, requires to be included in any such return.

#### Apprentices—Quebec.

442. Persons desirous of becoming pilots for and below the harbour of Quebec, shall continue as heretofore to pass their indentures of apprenticeship with the Quebec Pilots Corporation, and, for that purpose, the said corporation shall continue to be subject to the provisions of the Act passed in the twelfth year of Her late Majesty's reign, intituled 'An Act to consolidate the laws relating to the powers of the Trinity House of Quebec, and for other purposes,' as amended or altered by subsequent legislation, and to the by-laws made by the Trinity House of Quebec, by the Quebec Harbour Commissioners, and by the Minister relative to pilots taking apprentices, and shall continue to have power to cause such apprentices to serve in turn on board ships piloted or on board the schooners of the corporation.

443. The number of pilots for the pilotage district of Quebec shall not exceed one hundred and twenty-five; and the pilotage authority for the district of Quebec may prescribe the number of apprentices to be indentured to the Quebec Pilots Corporation.

(2) The Quebec Pilots Corporation shall, in each year, make a return of the number of its apprentices to the said pilotage authority.

444. Whenever the period of apprenticeship of any apprentice indentured to the said Quebec Pilots Corporation has been interrupted for less than four months in all, on account of sickness, involuntary absence or other legitimate cause, the Quebec Harbour Commissioners shall grant to said apprentice, if found otherwise qualified and entitled a license as pilot, on proof that he has served a regular apprenticeship of seven years in all: Provided he has made up for the time lost by such interruption, by an additional period or periods of service, after the lapse of seven years from the commencement of his apprenticeship, and has made four voyages to Europe.

#### Licensing of Pilots.

445. Every pilot, on being licensed by any pilotage authority, shall receive a license containing his name and usual place of abode, a description of his person and a specification of the limits within which he is qualified to act, which may be in form Q.

(2) The collector of Customs at the principal port of the district within which any pilot is licensed to act, shall on his request, and without fee or reward, register the license of such pilot, and add his name to the list posted up at the Custom house, and no pilot shall be entitled to act as such until his license is so registered.

446. Every licensed pilot who acts beyond the limits for which he is qualified by his license, shall be considered an unlicensed pilot.

447. Every licensed pilot shall, on receiving his license, be furnished with a copy of this Part, and a copy of the tariff of dues and of the by-laws established within the districts for which he is licensed; and he shall produce such copies to the master of any ship or other person employing him, when required so to do.

448. Every pilot who has received a license from a duly constituted authority in that behalf, may retain the same, under and subject to the provisions of this Part, and shall, for the purposes of this Part, while so retaining the same, be a pilot licensed by the pilotage authority of the district to which his license extends.



### Production of License.

449. Every licensed pilot shall, while acting in that capacity be provided with his license, and shall produce the same, whether requested to produce it or not, to every person by whom he is employed, or to whom he offers his services as pilot, at the time when he enters into the employment of, or offers his services to such person; and shall, at all times, produce his license at the request of every person by whom he is employed as pilot.

### Forfeiture, Surrender or Withdrawal of License.

450. Every branch pilot or licensed pilot who passes two full and consecutive years without acting as a pilot, except in case of sickness, unavoidable absence or special permission from the pilotage authority of his district, shall forfeit his license.

451. Every licensed pilot suspended or deprived of his license or compelled to retire, shall produce or deliver up his license to the authority by whom he is so suspended or deprived or compelled to retire.

(2) On the death of any licensed pilot, the person into whose hands his license comes shall, without delay, deliver it to the pilotage authority of the pilotage district for which he was licensed.

452. Every licensed pilot shall, on his attaining the age of sixty-five years, produce and deliver up his license or branch to the pilotage authority of the district to which it extends, and such authority may grant him a new license for one year, and so from year to year.

453. The board of directors of the Quebec Pilots Corporation may make any agreement and compromise respecting the withdrawal of the license of any pilot for and below the said harbour, and the conditions of such withdrawal.

### Limitation and Renewal of Licenses.

454. The pilotage authority of any district, except the pilotage districts of Quebec, Montreal and St. John, respectively, may, in its discretion,—

(a) limit the period during which any license to a pilot granted by it shall be in force to any term not less than two years from the date thereof;

(b) after the end of such period, renew such license for a further limited term not less than two years; and,

(c) cancel any license to a pilot granted before the first of March, one thousand eight hundred and eighty-seven, and substitute for it a limited and renewable license.

(2) In such cases the form of the license shall be altered by inserting after the word 'capacity' in form Q, the words until the                      day of                      A.D.                      , unless in the mean time this license is cancelled.

455. All pilots shall pay to the pilotage authority of the respective districts for which they are licensed, or as such authority directs, such fees upon such renewals as are, from time to time, fixed for that purpose by such authority with the consent of the Governor in Council; and such fees shall be applied in the manner prescribed by this Part.

### List of Pilots.

456. Every pilotage authority shall, from time to time, and at least once in every year, prepare a list of the pilots holding licenses for their pilotage district, specifying the name and usual place of abode of every pilot holding such license, and the limits within which he is licensed to act; and shall transmit such list to the collector of Customs at the principal port within such district.

457. Every collector of Customs, to whom any such list is so transmitted, shall, immediately after the receipt thereof, cause the same to be posted up, and shall always keep the last received of such lists posted up at the Custom-house of the port.

### License Register.

458. Each of the pilotage authorities of Quebec, Montreal, Halifax and St. John shall cause every pilot's license granted by it to be registered in a book to be kept for that purpose in the office of such pilotage authority; and every such book shall, at all times, during the usual office hours, be open to all persons for inspection without fee or reward.

### Rights of Pilots.

459. Every pilot compelled to retire under the provisions of this Part on account of age or of mental or bodily infirmity, and every widow and child of a deceased pilot shall be entitled to such pension or assistance as the pilotage authority of the district in and for which such pilot was licensed deems it proper to grant to him or her out of the pilot fund of such district.

460. No pilot shall, without his consent, be taken to sea or beyond the limits for which he is licensed, in any ship whatsoever.

(2) Every pilot so taken shall be entitled to cabin passage, and over and above the pilotage dues otherwise payable to him, to the sum of two dollars per day, to be computed from, and inclusive of the day on which the ship passes the limit up to which he was engaged to pilot her, and up to and inclusive of, either the day of his being returned in the said ship to the place where he was taken on board, or, if he is discharged from the ship at a distance from such place, such day as will allow him sufficient time to return thereto.

(3) In such last mentioned case, he shall be entitled to his reasonable travelling expenses by cabin passage or first-class conveyance by land, as the case may be, over and above such pilotage dues and other sums.

461. If a licensed pilot is placed in quarantine, owing to his having been taken on board any ship, he shall be entitled to suitable board and accommodation, and, to the sum of three dollars per day over and above the pilotage dues payable to him from and inclusive of the day on which he is placed in quarantine up to and inclusive of the day on which he is discharged therefrom; and, if he is not discharged at the place where he was taken on board any ship, then up to and inclusive of such day as will allow him sufficient time to return to such place, in which case he shall be entitled to his reasonable travelling expenses over and above such pilotage dues and such other additional sums.

462. Any licensed pilot may quit a ship which he has undertaken to pilot as soon as such ship is finally anchored or moored after completion of her voyage or removal, as the case may be, or as soon as she passes out of the pilotage district to which his license extends, whichever first happens; whereupon the service for which he was hired shall be held to be performed.

#### Damages caused by a Pilot.

463. A pilot deprived of his license, or suspended or condemned to pay a penalty for having caused damage to a ship shall not be entitled to any pilotage dues if the amount of such damage is equal to or exceeds that of such dues, or, if it is less, to more than the excess of the amount of such dues over that of such damage.

(2) The provisions of this section shall be deemed to be referred to in section twenty-six of the Act of the legislature of the late province of Canada, passed in the twenty-third year of the reign of Her Majesty Queen Victoria and chaptered one hundred and twenty-three, intituled An Act to incorporate the Pilots for and below the Harbour of Quebec.

#### Rights of Pilots in Pilotage Districts in which the Payment of Pilotage dues is Compulsory.

464. If any boat or ship having on board a licensed pilot leads any ship which has not a licensed pilot on board when such last mentioned ship cannot, from particular circumstances, be boarded, the pilot so leading such last mentioned ship shall be entitled to the full pilotage dues for the distance run, as if he had actually been on board and piloted such ship.

(2) Such pilot, while leading such last mentioned ship, shall keep his pilot flag flying, and such last mentioned ship shall, while being so lead, show the ensign of such ship, at her fore.

465. Any person may, within any pilotage district for which he is not a licensed pilot, without subjecting himself or his employer to any penalty, pilot a ship,—

(a) when no licensed pilot for such district has offered to pilot such ship, or made a signal for that purpose, although the master of the ship has displayed and continued to display the signal for a pilot in this Part provided, whilst within the limits prescribed for that purpose;

(b) when a ship is in distress, or under circumstances making it necessary for the master to avail himself of the best assistance which can be found at the time.

(2) If such unlicensed pilot is not superseded as in the next following section provided, he shall be entitled to be paid full pilotage dues.

466. A licensed pilot may, in any such district, upon showing his proper signal and exhibiting his license, supersede an unlicensed pilot, but the master shall pay to such unlicensed pilot a sum in proportion to the distance run for his services, and deduct the same from the charge of the licensed pilot.

(2) In case of dispute, the pilotage authority of the district for which the licensed pilot is licensed, shall determine the proportionate sum to which each person is entitled.

467. If any master of a ship which is not an exempted ship removes such ship or causes such ship to be removed from one place to another within the harbour of Quebec, without the assistance of a licensed pilot for the pilotage district of Quebec, he shall pay to the Quebec Pilots Corporation the same pilotage dues as he would have been liable to pay if he had obtained the assistance of one of such licensed pilots.



(2) This provision shall not apply to the master of any ship actually proceeding to Montreal or elsewhere above the harbour of Quebec, in charge of a pilot for and above the harbour of Québec.

#### Licensing of Masters and Mates.

[Sections 468-486 deal with the payment of pilotage dues. Sections 487-493 provide for the licensing of masters and mates under certain conditions to act as pilots upon specified ships and within defined limits.]

#### Pilot Funds.

[Sections 504-510 make provision for contribution by the pilots of the Quebec and Montreal Districts to Pilot Funds, which are to be applied in payment of superannuation allowances, or other relief for the benefit of licensed pilots incapacitated by age, infirmity or accident, and of the widows and children of licensed pilots.]

#### Investigations.

[Sections 515-531 provide for the investigation of charges against pilots and of inquiries in connection with any accident or damage which happens to or is caused by any vessel in charge of a pilot.]

#### Offences and Penalties.

532. Every licensed pilot who fails to produce copies of this Part and of the tariff of dues, and of the by-laws established within the districts for which he is licensed to the master of any ship or other person employing him, when required so to do, shall incur a penalty not exceeding twenty dollars.

533. Every licensed pilot who, while acting in that capacity, neglects or refuses to produce his license, at the time of his employment or the offering of his services, to any person by whom he is employed or to whom he offers his services, shall, whether requested to produce the license or not, for each such neglect or refusal, incur a penalty not exceeding forty dollars, and shall be subject to suspension or dismissal by the pilotage authority by whom he is licensed.

534. Every licensed pilot suspended or deprived of his license, or compelled to retire, who fails without any reasonable cause, proof whereof shall lie on him, to produce or deliver up his license to the authority by whom he is so suspended, or deprived or compelled to retire, and any person into whose hands the license of such pilot shall on the death of such pilot, come, who without any reasonable cause, proof whereof shall lie on him, fails to deliver the same to the pilotage authority of the pilotage district for which such pilot was licensed, shall incur a penalty not exceeding forty dollars.

(2) Any court of competent jurisdiction may, in addition to imposing such penalty, by summary order, direct such license to be forthwith delivered up to such authority.

535. If any person pilots a ship in any pilotage district for which he is not a licensed pilot, he shall be liable to a penalty of forty dollars except,—

(a) when no licensed pilot for such district has offered to pilot such ship, or made a signal for that purpose, although the master of the ship has displayed and continued to display the signal for a pilot in this Part provided, whilst within the limits prescribed for that purpose; or,

(b) when a ship is in distress, or under circumstances making it necessary for the master to avail himself of the best assistance which can be found at the time.

536. Every unlicensed pilot who continues in the charge of a ship in any district after a licensed pilot has offered, by showing his proper signal and exhibiting his license, to take charge of her, shall, for each offence, be liable to a penalty not exceeding one hundred dollars, and, in default of payment, to imprisonment for any term not exceeding one month.

550. Every licensed pilot who, either within or without the district for which he is licensed,—

(a) commits any fraud or offence in respect to the revenues of Customs, or Inland Revenue, or the laws relating thereto; or,

(b) is in any way directly or indirectly concerned in any corrupt practices relating to ships, their tackle, cargoes, crews or passengers, or to persons in distress at sea or by shipwreck, or to their moneys, goods or chattels; or,

(c) lends his license; or,

(d) acts as pilot whilst suspended; or,

(e) acts as pilot when in a state of intoxication; or,

(f) employs or causes to be employed, on behalf of any ship of which he has the charge, any steamboat, boat, anchor, cable, or other store, matter or thing, beyond what is necessary for the service of such ship, with the intent to enhance the expenses of pilotage for his own gain, or for the gain of any other person; or,

(g) refuses or delays, when not prevented by illness or other reasonable cause, to take charge of any ship within the limits of his license, upon the signal for a pilot being made by such ship, or upon being required so to do by the master, owner, agent or consignee thereof, or by any officer of the pilotage authority of the district for which such pilot is licensed, or by any principal officer of Customs, subject in the case of a pilot for and below the harbour of Quebec, to the laws relating to the Quebec Pilots Corporation; or,

(h) upon being so signalled or required, attempts to make any special bargain for salvage; or,

(i) unnecessarily cuts or slips, or causes to be cut or slipped any cable belonging to any ship; or,

(j) refuses, when requested by the master to conduct the ship on board of which he is into any port or place into which he is licensed to conduct the same, except on reasonable ground of danger to the ship; or,

(k) quits the ship which he has undertaken to pilot, before the service for which he was hired has been performed, without the consent of the master; shall, for each offence, in addition to any liability for damages, be liable to a penalty not exceeding two hundred dollars, and suspension or dismissal by the pilotage authority of the district for which he is licensed.

551. Every person who procures, abets or connives at the commission of any of the offences mentioned in the last preceding section, shall, for each offence, in addition to any liability for damages, be liable to a penalty not exceeding two hundred dollars, and, if he is a licensed pilot, to suspension or dismissal by the pilotage authority of the district for which he is licensed.

552. Every pilot who, when on board any ship for the purpose of piloting her, by breach or neglect of duty, or by reason of drunkenness, either,—

(a) does any act tending to the immediate loss, destruction or serious damage of such ship, or tending immediately to endanger the life or limb of any person on board such ship; or,

(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from danger to life or limb, is guilty of an indictable offence and liable to imprisonment for a term not exceeding twelve months, with or without hard labour, and, if a licensed pilot, to suspension or dismissal by the pilotage authority of the district for which he is licensed.

553. A pilot shall be liable to suspension or dismissal by the pilotage authority of the district, for any of the offences mentioned in the last preceding section, upon such evidence as the said authority deems sufficient, and whether he has or has not been convicted of or indicted for such offence.

554. Whenever the pilotage authority of Quebec has power to dismiss or suspend a branch pilot for and below the harbour of Quebec, it may fine such pilot in a sum not exceeding one hundred dollars, if it deems it advisable so to do in lieu of dismissing or suspending him.

555. Every person who, by any misrepresentation of circumstances upon which the safety of a ship depends, or by using a license to which he is not entitled, becomes employed or endeavours to be employed to pilot such ship, or enables or endeavours to enable any other person to be so employed, or obtains or endeavours to obtain for himself or any other person the charge of such ship shall, in addition to any liability for damages, be liable to a penalty not exceeding two hundred dollars, and, if a licensed pilot, to suspension or dismissal by the authority by whom he is licensed.

556. Every licensed pilot who demands or receives any sum in respect of pilotage services greater than the dues for the time being demandable by law, shall, for each offence, incur a penalty not exceeding forty dollars.

#### Cancellation and Suspension.

557. In addition to any provision in this Part contained for the cancellation or suspension of the license of any licensed pilot, any such license shall be subject to cancellation and suspension in the manner prescribed in that behalf by Part X. of this Act.

#### Appeals from Judgments rendered against Quebec District Pilots.

558. In the pilotage district of Quebec any pilot shall have the right to appeal to the Superior Court of the province of Quebec, from any judgment rendered against him by any tribunal or officer designated by the Minister under the authority of this Part for the trial of any offence; and, for the purposes of such appeal, he shall,—

(a) give notice of such appeal to the Minister within fifteen days after such judgment;

(b) give, to the satisfaction of the Superior Court or a judge thereof good and sufficient security for the payment of the costs of the appeal; and,

(c) proceed with such appeal at the next term of the court after the expiration of said fifteen days.

559. No judgment rendered against a pilot by any tribunal or officer so designated shall be executory before the expiry of fifteen days after the rendering thereof, and every appeal therefrom to the Superior Court shall suspend the execution thereof pending such appeal.

(2) In the case of a judgment ordering the suspension of a pilot, and confirmed on appeal, the time of the suspension shall only date from the day the judgment is affirmed in appeal.

#### Limitation of Suits and Prosecutions.

564. No suit shall be brought or proceeding instituted for the recovery of any penalty or the infliction of any punishment for any offence against the provisions of this Part, or for any breach of any by-law made thereunder, or any by-law now in force, after six years from the date of the commission of such offence or breach.

(Forms omitted.)

#### Steamboat Inspection—Examination and Licensing of Engineers.

Chapter 113 with amendments.—565. In this Part, unless the context otherwise requires,—

(a) 'steamboat' includes any vessel used in navigation or afloat on navigable water, and propelled wholly or in part by steam, or by any machinery or power other than sails or oars, and includes steam dredges and floating elevators;

(b) 'owner' means the registered owner only;

(c) 'boilers and machinery' includes the steam engine or engines, and every part thereof or thing connected therewith, employed in propelling the steamboat, and any donkey or pony engine used on board, and the boiler or boilers for supplying steam thereto, and the furnaces, chimneys, flues, safety and blow-off valves, gauges, braces, stays, pipes, steam pumps, and all other apparatus and things attached to or connected therewith or used with reference to any such engine or under the care of the engineer;

(d) 'boiler' means a boiler of or intended for a steamboat, and includes boilers when the steamboat has more than one, and 'boilers' means boiler when the steamboat has only one;

(e) 'hull and equipment' includes the hull and every part thereof, masts, sails and rigging, when the steamboat carries them, life boats and other boats and the tackle and apparatus for lowering or hoisting them, the apparatus, other than steam fire engines, for preventing or extinguishing fires, anchors and cables, windlasses and capstans, fire buckets, compasses, axes, lanterns, and all other articles and things necessary for the navigation and safety of the steamboat and not under the care of the engineer;

(f) 'hull' includes the equipment;

(g) 'inspector' means a person appointed under the provisions of this Part to inspect the boilers and machinery or the hulls and equipment of steamboats;

(h) 'certificate' means one of the duplicates or triplicates of the certificate given by the inspectors or inspector, as the case may be;

(i) 'passenger' means any person carried on a steamboat other than the master and crew, the owner, his family and the servants connected with his household, and other than the guests of the owner of any steamboat used exclusively for pleasure, if such guests are carried on such steamboat without remuneration or any object of profit; and

(j) 'passenger steamer' means any steamboat carrying passengers." 1908, c. 65, s.

12.

(k) 'tug-boat' means a steamboat used exclusively for towing purposes;

(l) 'freight boat' means steamboat carrying freight only;

(m) 'vessel' means any barge, bateau, boat, scow or vessel carrying passengers, other than a steamboat;

(n) 'voyage' includes 'passage' or 'trip';

(o) 'remuneration' includes fuel and ships' stores of any kind or any other kind of payment or compensation;

(p) for the purpose of collecting the yearly duty in this Part imposed, 'year' means the calendar year, and, for the purpose of the inspection by this Part rendered imperative, 'year' means twelve calendar months from the date of the certificate of inspection;

(q) 'night-time' shall, when used to specify the time during which lights shall be affixed to gang boards, include all that portion of the day extending from one-half hour after sunset till one-half hour before sunrise;

(r) 'Board' means the Board of Steamboat Inspection provided for by this Part.

## Extent and Application of Part.

566. The provisions of this Part shall apply to,—

(a) steamboats belonging to His Majesty, only as regards the annual inspection of their boilers, machinery and as regards their equipment as provided by the rules and regulations for the inspection of steamboats;

(b) steam dredges, floating elevators and vessels of like kind, only as regards the yearly rate or duty, the annual inspection of their boilers and machinery and the obligation to carry life buoys with the necessary line attachment as required by the rules for inspection of steamboats;

(c) steam yachts of not more than five tons gross tonnage and vessels propelled by gas, fluid, naphtha or electric motors, only as regards the obligation to carry a life preserver for each person on board and one life buoy, and to take the precautions against fire in this Part imposed;

(d) steam yachts over five tons gross tonnage, only as regards the yearly rate or duty, the inspection of their boilers and machinery, the obligation to carry a life preserver for each person on board and one life buoy, and as regards the precautions against fire in this Part imposed;

(e) freight boats under one hundred and fifty tons gross tonnage, tug boats, and steamboats used exclusively for fishing purposes and under one hundred and fifty tons gross tonnage, only as regards the yearly rate or duty, the inspection of their boilers and machinery, the obligation to carry a life preserver for each person on board and one life buoy, and a boat or a raft as required by the rules for the inspection of steamboats, the obligation to have an engineer holding a certificate of competency, if the steamboat has an engine of over ten nominal horse-power if of the single cylinder type, and over twenty nominal horse-power if of the compound type, and as regards the precautions against fire in this Part imposed.

(2) Every steamboat mentioned in this section, other than vessels of not more than five tons gross tonnage, shall, if it carries passengers, be subject to the provisions of this Part applicable to passenger steamboats. 1908, c. 65, s. 14.

567. (Repealed by 1908, c. 65, s. 14.)

568. (Repealed by 1908, c. 65, s. 14.)

569. The Governor in Council may direct that this Part or certain provisions thereof shall apply, or shall not apply to any steamboat or class of steamboats registered elsewhere than in Canada, and may fix a rate or duty to be paid for the inspection of such steamboat or class of steamboats.

570. When satisfactory evidence has been produced that no steamboat inspection fee or tax is levied on Canadian steam vessels trading to or from any country outside of Canada, the Governor in Council may direct that no steamboat inspection fee or tax be levied on steam vessels of such country going to and from Canada.

571. When satisfactory evidence has been produced that any country outside of Canada has steamboat inspection laws approximating the steamboat inspection law of Canada, and the steamboats of such country have unexpired certificates of inspection issued by the proper authorities of such country, the Governor in Council may direct that they shall be subject to no other inspection than may be necessary to satisfy the Canadian inspectors that the condition of the steamboat, her boilers, machinery and life-saving equipment are as stated in the current certificate of inspection of such steamboat: Provided that no such certificate of inspection shall be accepted as valid in Canada, except when held by steamboats of a country which has, by its law, accorded to the steamboats of Canada going to and from that country the same privilege as is hereby accorded to steamboats of that country.

## Appointment and Qualification of Inspectors.

572. The Governor in Council shall, from time to time, appoint at such places as he deems advisable in Canada,—

(a) a person or persons competent to inspect the boilers and the machinery employed in steamboats and not interested in the manufacture of steam engines, boilers or other machinery belonging to steamboats, whose duty it shall be to make the inspection of steamboats in this Part prescribed and to give to the owner or master two of the triplicate certificates of such inspection; and

(b) a skilled person or persons competent to inspect the hulls and equipment of steamboats and not interested in the building or construction of hulls of steamboats or of any article or thing mentioned in this Part as required for the equipment of steamboats, or properly belonging to or connected with such equipment, according to the intent of this Part, whose duty it shall be to make such inspection and to give triplicate certificates of such inspection.

573. No person shall be appointed an inspector of boilers and machinery of steamboats unless he has passed a satisfactory examination before the Board of Steamboat Inspection, as to his knowledge and experience on the subject of boilers and machinery

of steamboats, and the working thereof, nor unless he has received from the chairman of the Board a certificate in writing that he has satisfactorily passed such examination.

574. No person shall be appointed an inspector of the hulls and equipment of such vessels, unless he has passed a satisfactory examination as to his competency for the office, before the chairman, or, in case of his absence, a deputy chairman of the Board and two inspectors of hulls and equipment, or one or more experienced practical ship-builders, nor unless he has received from the chairman of the Board a certificate in writing that he has satisfactorily passed such examination.

575. Every such inspector, before entering upon his duties as such, shall take and subscribe an oath before a judge of a court of record well, faithfully and impartially to execute the duties assigned to him by this Part, in the form or to the effect following:—

I, A. B., do solemnly swear that I will well, faithfully and impartially, to the best of my judgment, skill and understanding, execute the duties assigned to the office of inspector of boilers and machinery (or hulls and equipment, as the same may be) of steamboats, under Part VII. of the Canada Shipping Act. So help me God.

576. The oath taken by every inspector shall be forwarded forthwith by such judge to the Minister.

577. In the provinces of Manitoba, British Columbia, Saskatchewan and Alberta, and in the Northwest and Yukon Territories, the Minister may, when he sees fit, dispense with the appointment of an inspector of hulls and equipment, and, in such case, or, in case of a vacancy in the office of inspector in the said provinces, or territories, the Minister may assign the duties of such inspector to the inspector of boilers and machinery, or such other persons as he temporarily employs, who shall then, and so long as such order remains in force, have all the powers and perform all the duties hereby assigned to the inspector of hulls and equipment, under the like obligation and like penalties in case of default, and such person shall be called an acting inspector of hulls and equipment.

#### Regulations by the Governor in Council.

578. The Governor in Council may make rules and regulations,—

(a) for the testing of boilers and all matters connected with the construction and working thereof;

(b) for the inspection of safety valves and boiler cocks and all matters connected with the construction and working thereof;

(c) for the inspection of hulls and equipment of steamboats;

(d) respecting boats and life-preservers, fire-buckets, axes and lanterns and other life-saving appliances to be carried by steamboats or by other vessels mentioned in this Part;

(e) respecting the qualifications necessary to entitle a person to an engineer's certificate;

(f) requiring steamboats to carry chemical or other fire extinguishers and prescribing the number of such fire extinguishers to be carried by steamboats of different sizes and classes respectively;

(g) for the inspection of the machinery and equipment of steamboats propelled by gas, fluid, naphtha, electricity, or any other mechanical or chemical power, and, in the case of such vessels, for making such changes in forms S and T as he deems advisable.<sup>1</sup>

579. Such rules and regulations shall, after publication in the "Canada Gazette" have like force and effect as if they were in this Part enacted.

580. The Governor in Council may, at any time, order and direct that the provisions of this Part or of any rules or regulations made thereunder, in so far as such provisions extend to the carrying of boats and life-preservers, shall not, at any time or during any time specified in the order in council, apply to any ferry boat specially mentioned in such order.

581. The Governor in Council may order and direct that such provisions, as he deems advisable with respect to the carrying of boats and life-preservers on any ferry boat, shall be applicable to and shall during any time specified in the order in council be enforced in respect of any ferry boat specially mentioned in such order in council.

#### Board of Steamboat Inspection.

582. There shall be a board to be called the Board of Steamboat Inspection, to be composed of the inspectors and such other persons as the Minister may appoint.

(2) The Governor in Council may appoint any member of the Board chairman.

<sup>1</sup> Under the authority of this section, a number of important rules and regulations have been issued relating to life saving appliances for steamboats, precautions against fire, the inspection of boilers, machinery, hulls and equipment of steamboats, and the examination of engineers.

(3) Three of the members shall form a quorum, one of which shall be the chairman. 1913, c. 49, s. 3.

583. The chairman shall have the right to vote; and in the case of an equal division shall also have a casting vote, and shall also supervise the other inspectors.

584. The Minister may appoint one of the inspectors a deputy chairman, to act in the absence of the chairman, and such deputy shall exercise all the functions of the chairman.

585. The minutes or the proceedings of the Board shall be kept by such chairman or deputy chairman and a copy thereof, certified by him, shall be transmitted to the Minister.

586. The Board shall meet at such time and at such place as the Minister determines, and may make rules and regulations for their own conduct, for the uniform inspection of steamboats, for prescribing the duties of engineers, and for such other purposes as are necessary under this Part; and such rules and regulations shall not come into force until after they are approved by the Governor in Council.

#### Inspection.

587. The chairman of the Board may at any time inspect or examine the hull, equipment, boiler or machinery of any steamboat, and, if he suspects any inspector of having neglected his duty in relation to such steamboat, or in any other respect, he may call a meeting of the Board to investigate the case, or may himself investigate it; and the result of such investigation shall be forthwith communicated, in writing, to the Minister.

(2) The chairman of the Board shall receive and examine all reports and accounts of inspectors, and report fully to the Minister upon all matters pertaining to his official duties, so as to ensure, as far as possible, a uniform and efficient administration of the inspection laws, rules and regulations.

588. The master or owner of every steamboat liable to inspection under this Part shall cause the boiler and machinery and the hull and equipment thereof, or the boiler and machinery alone, as the case may be, to be inspected at least once every year, and shall deliver one of the certificates thereof to the chief officer of Customs at the port where such inspection is made, or at which such steamboat arrives next after such inspection, when it has not been made in such port.

589. Every such certificate, unless sooner revoked, shall be good for a period of twelve months from the date thereof, or for such less period as is stated by the inspector in the certificate; and every steamboat running without such certificate on board shall be seized and detained by any chief officer of Customs or by any person thereunto directed in writing by the Minister.

590. In any case in which a steamboat requiring inspection is not ready for such inspection when the inspector is in the vicinity of such steamboat for the purpose of inspecting steamboats, or if, from any other cause, the inspector has to return to inspect such steamboat, the expenses incurred by the inspector in returning to inspect or to complete inspection of such steamboat, if the Minister determines that such expenses were incurred through the fault or default of the owner or manager of such steamboat, shall be paid by the owner, and, if not paid forthwith, the steamboat shall, subject to the directions of the Minister, be liable to be seized and detained until such expenses have been paid.

591. The master, owner or engineer of every steamboat, or the person in charge thereof, shall at the earliest opportunity after the occurrence of any event whereby the hull, or the machinery or boiler thereof, or any part of any or either of the same is, in any material degree, injured, strained or weakened, report such occurrence, in writing, to the office of the inspector who issued the certificate. 1908, c. 65, s. 15.

592. Every inspector may, at all times, when inspecting, visiting or examining any boilers and machinery or the hull of any steamboat, ask of any or all of the owners, officers or engineers of such steamboat, or other person on board thereof and in charge or appearing to be in charge of such steamboat, or of the boiler or machinery thereof, such pertinent questions concerning the same, or concerning any accident that has happened thereto, as he thinks fit; and every such person shall fully and truly answer every such question so put to him.

(2) The inspector may require that the engine and machinery under inspection by him shall be put in motion.

593. Every inspector of steamboats shall demand of the owner or master of every steamboat which he inspects the production of the certificate of registry of such steamboat, and may require the production of the certificate of the master, mate or engineer, as the case may be, whenever the law requires these officers to possess certificates, and such owner or officer shall thereupon produce and exhibit the same to such inspector.

594. When the inspector finds it necessary to open up the hull of a vessel for the purpose of examining her condition, the expense thereby incurred shall be chargeable to the owner of such vessel.



595. Every inspector shall be carried free of expense on any steamboat which he desires to inspect while under way, and during such period as is necessary for such inspection, and for his return to the port at which he embarked on such steamboat for such purpose, or for his disembarkation at any port at which such steamboat touches on her voyage.

596. If the inspector of hulls and equipment who inspects any steamboat in the manner required by this Part, approves the hull and equipment of such steamboat, he shall make and sign, according to form S, a certificate in triplicate which he shall deliver to the inspector of boilers and machinery.

(2) The inspector of boilers and machinery, when he has inspected and approved the boilers and machinery of the steamboat, shall make and sign, in triplicate upon the same sheets of paper on which the certificate in triplicate of the inspector of hulls and machinery is written, a certificate according to form S.

(3) The inspector of boilers and machinery shall keep one of such triplicates, and shall deliver the two others to the owner or master of the steamboat.

(4) The owner or master of the steamboat shall deliver one of the triplicates to a chief officer of Customs aforesaid, and shall cause the other to be posted up, framed and protected by glass in some conspicuous part of the steamboat for the information of the public.

597. If the steamboat is one of which the boiler and machinery only are subject to inspection under this Part, the inspector of boilers and machinery shall sign a certificate in form T, in duplicate, and deliver the duplicates to the master or owner of the steamboat, who shall deliver one to a chief officer of Customs and cause the other to be framed and protected by glass and posted up in some conspicuous part of the steamboat for the information of the public.

598. Every inspector of steamboats shall, whenever he visits and inspects any steamboat, satisfy himself that such steamboat is properly furnished with lights and with means of making fog signals, in pursuance of the rules prescribed by Part XIV, of this Act, and is also provided with the proper certificated officers in charge as required by Parts II. and VII. respectively; and he shall refuse to grant any certificate with respect to any steamboat which he finds is not so provided.

(2) In the event of any change in the proper certificated officers following the issuing of a certificate of inspection to a steamer, the owner, managing owner or agent shall forthwith report in writing, by registered post, such change to the office of the inspector or inspectors who issued such certificate, with the name, grade, and number of the certificate held by the officer so appointed; and in the event of the owner, managing owner or agent not doing so, such vessel shall be deemed to be making a trip or voyage without a certificate of inspection. 1908, c. 65, s. 16.

599. An inspector or any person thereunto directed by the Minister may at any time go on board any steamboat inspected under this Part and inspect the equipment thereof; and, if the equipment is not such as was approved by the inspector when he issued the certificate of inspection then current, the person making the inspection may seize and detain such steamboat until released by direction of the Minister.

600. Any matter in dispute arising under this Part between an inspector or the Board and the master or owner of any steamboat, and also any dispute between an inspector or the said board and an engineer, may be referred by either party to the Minister, who shall finally decide the same.

601. Each inspector shall keep a register of the inspections and certificates made and granted by him in such form and with such particulars respecting them as the chairman of the Board, from time to time, directs, and shall furnish copies thereof, and shall also furnish any other information pertaining to the duties of his office to the chairman when required.

#### Pressure, Steam Gauge.

602. Whenever the engine of any steamboat is stopped for over five minutes, the engineer or the master or person in charge of such steamboat shall open the safety-valve, so as to keep the steam in the boiler below the pressure limited by the inspector's certificate.

603. There shall be, in a conspicuous and easily accessible place in each steamboat, a steam gauge properly constructed and open to the view of all passengers and others on board such steamboat, and showing at all times the true pressure of the steam in the boiler thereof.

604. The steam gauge required by this Part to be open to the view of all passengers and others on board any steamboat shall be that known as the 'Bourdon Gauge,' or shall be of such construction and shall be put in such place and position, as the inspector visiting, examining or inspecting such steamboat, from time to time, directs.

605. Each boiler of every steamboat shall be provided with a suitable water gauge capable of showing the water level within each boiler at all times; and all steamboats navigating in brackish or salt water, shall be provided with surface blowing-off valves, such as are commonly used on board sea-going steamboats.

## Bilge pipes—Life-buoy.

606. Every passenger steamboat shall be provided with efficient means for relieving the bilges of water and in addition thereto, if having a condensing engine, shall be provided with a bilge injection valve and a pipe of suitable dimensions leading from the floor frames of the steamboat into the condenser of the engine.

(2) Such bilge injection pipe shall have a check non-return valve, if necessary.

607. Every steamboat registered in Canada, or to which this Part applies, shall carry in some convenient place where it can be easily got at for use in case of accident at least one life-buoy with a proper heaving line attached.

## Precautions Against Fire and Accidents.

608. Suitable and safe provision shall be made throughout every steamboat to guard against danger from fire; and no combustible material, liable to take fire from heated iron or any other heat generated on board any steamboat, in and about the boilers, pipes or machinery, shall be placed at less than six inches distance from such heated metal or other substance likely to cause ignition.

(2) When wood is so exposed to ignition, it shall, as an additional preventive, be shielded by tin being nailed on it in such manner as approved by the inspector.

(3) The funnel shall have a casing of metal or other incombustible material extending up through the decks from the boiler with a space of at least four inches between it and the funnel.

(4) If the structure of the steamboat is such, or the arrangement of the boiler or machinery is such, that the requirements aforesaid cannot, without serious inconvenience or sacrifice, be complied with, the inspector may allow deviations from the said requirements, if, in his judgment, it can be done with safety.

609. No coal oil which will not bear a test of three hundred degrees Fahrenheit without taking fire shall be used on any passenger steamboat: Provided that, where oil is used as fuel for the production of motive power on steamboats, oil which will bear a test of two hundred degrees Fahrenheit, without taking fire may be accepted if properly stored with safe and suitable provisions as to safety and to guard against fire and explosion from such oil to the satisfaction of the steamboat inspector.

610. Inflammable matter, when carried on any steamboat, shall invariably be stowed away as far as possible from the boiler, and from place where its ignition is possible.

(2) Metallic vessels or safes shall be provided and kept in some convenient place to receive cotton-waste, hemp and other inflammable substances, which are in use on board.

(3) No coal oil lamp shall be used between decks on any passenger steamboat in which any inflammable material is carried.

611. No fire or lighted lamp, candle or other artificial light by which fire may be communicated, shall be allowed in any stateroom of any passenger steamboat, or in the steerage thereof, unless in a locked and glazed lantern; and no lamps other than with metal bowls shall be used in freight holds or cargo decks.

612. Whenever electricity is used for lighting or other purposes on board of any steamboat, a certificate in writing shall be furnished by the master or owner from a competent electrical engineer, certifying that the workmanship and material are good and that proper precautions have been taken to guard against accidents from fire.

613. Every passenger steamboat shall have at least three double-acting forcing pumps with chambers at least four inches in diameter with a stroke of not less than six inches.

(2) Two of such forcing pumps shall be constructed so as to be worked by hand, and one so as to be worked by steam, if steam can be employed independently of and not worked by the main engine, otherwise, all three so as to be worked by hand, one of such forcing pumps shall be placed near the stern, one near the stem, and one amidship, each having a suitable well-fitted hose of at least two-thirds the length of the steamboat, with a suitable nozzle attached and kept at all times in perfect order, clear of freight or other obstructions, with hose coupled and ready for immediate use.

(3) Each pump and coupling shall be provided with a hose wrench chained to the pump; and each pump shall be supplied with water by a pipe connected therewith, passing through the side of the steamboat, so low as to be at all times in the water when the boat is afloat.

614. In passenger steamboats not exceeding two hundred tons gross, two of such pumps may be dispensed with; if over two hundred tons, but not exceeding five hundred tons gross, one of such hand pumps may be dispensed with; but in such cases the hose shall be of such length as to reach easily to every part of the steamboat; and in passenger steamboats where only one pump is used, such pump shall be placed as directed by the inspector.

615. In passenger steamboats under one hundred tons gross, one steam pump of suitable size, or if steam cannot be employed, one force pump of suitable size worked by hand, shall be sufficient.



616. In passenger steamboats not exceeding two hundred tons gross, requiring only one pump, such pump shall be placed aft, unless the space forward is kept free to admit of ready access to the pump and hose, in which case the pump may be placed forward.

617. All steam pumps shall be supplied with suitable bilge connection having proper rose or mud box attachments, and also a steam syphon, ejector or other suitable means with which to relieve the hold of water.

618. When it is found that a metal tube or tubes are fixed on any steamboat not less in diameter than the hose carried by such steamboat connected with a force pump or pumps and provided with suitable connections placed at not more than thirty feet from each other, or from either end of the steamboat, to which the hose carried by the steamboat can be readily attached, it shall not be necessary that the hose should be of greater length than will be sufficient to reach from some one of such connections to either end of the steamboat.

(2) Each connection shall be provided with a stop valve or stop cock with keys and hose wrenches properly secured or chained to each stop valve or stop cock or confection, so that one or more of such hose attachments may be used as may be required.

619. Every passenger steamboat of more than sixty tons registered tonnage shall be provided with a steam pony pump that may be used as a fire engine, to be worked independently of the main engine.

(2) Such steam pony pump shall be placed in a suitable place, near the engine room convenient to the control of the engineer; and, in all cases, the pump hose shall be coupled to the pony and hand fire pumps, ready for immediate use in case of fire.

620. Every passenger steamboat carrying passengers on the main or lower deck, shall be provided with sufficient and convenient facilities for the escape of passengers to the upper deck, in case of fire or other accident endangering life.

621. Every steamboat shall be provided with wire tiller ropes, or iron rods or chains, correctly and properly laid with suitable rollers for the purpose of steering and navigating the vessel, and shall use wire bell pulls for signalling the engineer from the pilot house, where bells are used, together with tubes of proper size so arranged as to transmit the sound of the engine bells to the pilot house, or other arrangement approved by the inspector to repeat back the signal. 1908, c. 65, s. 17.

#### Engineers' Examination and Certificate.

622. Any person who claims to be qualified to perform the duties of a first, second, third or fourth class engineer on a steamboat may apply for a certificate to the Minister, who, in such case, shall cause the Board, or an inspector or inspectors, to examine the applicant and the proofs that he produces in support of his application, and to report upon such examination and proofs.

623. Such examination may be upon oath which any inspector may administer, and if the Board is satisfied that the character, habits of life, knowledge and experience in the duties of an engineer of the applicant are such as to qualify him to be such engineer, the Minister, on the report of the Board, shall give him a certificate to that effect, specifying the grade for which he has been found qualified: Provided that no applicant, if not a British subject, shall be entitled to a certificate, unless, in addition to the qualifications required by this Part, he has been domiciled in Canada for at least three years, and foreigners serving as engineers in ships registered in Canada shall be deemed to be domiciled in Canada while so serving.

624. If the report of the inspector or inspectors, certifying the fitness of an applicant, is made at the time when the Board is not sitting, it may be sent by such inspector or inspectors to the chairman, who, if he approves of it, shall submit it to the Minister, who may thereupon grant the applicant a certificate specifying the grade for which he has been found qualified; but, if the report of the said inspector or inspectors does not certify the fitness of said applicant, or is not approved by the chairman, the fee paid by such candidate shall not be returned to him, but he may be once more examined without payment of further fee.

625. Such certificate shall be on parchment and signed by the Minister and granted for life or during good conduct.

626. Any certificate as an engineer issued by the Board, and in force on the second day of June, one thousand eight hundred and eighty-six, may be delivered up by the holder thereof to the Minister, who may thereupon give to the holder a certificate on parchment, signed by the Minister.

627. For the first certificate to an engineer of any class, or for a certificate raising him to a higher class after re-examination, the applicant shall pay five dollars; and for every certificate granted on the delivery up, under the last preceding section of any certificate, the applicant shall pay one dollar.

(2) Such sums shall be paid to the Minister of Finance to form part of the Consolidated Revenue Fund of Canada.

623. The certificate of any such engineer may be suspended or cancelled by the Minister upon proof of negligence, unskilfulness or drunkenness, or in consequence of the finding of a coroner's inquest, or for any other cause deemed sufficient by the Minister and certified as such by him.

629. No person shall act in the double capacity of engineer and master on any steamboat, and no person shall, except when the boiler is fired from the engine room, act as engineer and fireman on any steamboat having an engine of over seven nominal horse-power and required by law to carry a certificated engineer.

630. Whenever any engineer proves to the satisfaction of the Minister that he has, without fault on his part, lost or been deprived of any certificate required under this Part, the Minister may, upon such terms and conditions as he deems fit, cause a copy or duplicate of the original certificate to be made out and certified as aforesaid and to be delivered to such engineer. 1912, c. 51, s. 3.

631. Every engineer holding a certificate of competency whether granted under this Part or under the Acts of the United Kingdom relating to merchant shipping, who is employed on any steamboat to which this Part applies, shall keep his certificate of competency posted up, framed and protected by glass, in some conspicuous place in or near the engine room of such steamboat.

#### Temporary Certificate.

632. The Minister, upon the report of the inspector of boilers and machinery in whose district the steamboat is to run, may grant a temporary certificate to an applicant sufficiently qualified by his knowledge of steamboat machinery and his experience as engineer on a steamboat, authorizing him to act as engineer on a steamboat carrying passengers, having an engine of not more than four nominal horse-power if of the single cylinder type, or fourteen nominal horse-power if of the compound type, which steamboat, and the limits within which he may act, shall be designated in the certificate. 1908, c. 65, s. 18.

633. Such temporary certificate may be issued for a term not exceeding one year, but may be suspended or cancelled for cause by the Minister.

634. For every such temporary certificate the applicant shall pay the sum of two dollars, which shall be paid over to the Minister of Finance to form part of the Consolidated Revenue Fund of Canada.

#### Certificates for the British Possessions.

635. In any case where the Minister has power under the provisions of the Merchant Shipping Act, 1894, to grant a certificate valid in Great Britain or elsewhere outside of Canada, the Minister may issue such certificates of competency as first-class or second-class engineer.

(2) Such certificates shall have the word "Canada" prominently marked on their face and back and shall be as nearly as possible similar in shape and form to corresponding certificates of competency for the foreign trade granted by the Board of Trade of the United Kingdom, under the said Act, and shall be prominently marked on their face "Valid in the United Kingdom or any British possession."

636. Such certificates shall be granted only on proof that the previous service at sea of the person applying for the same has been such as is required by the regulations for the time being in force in the United Kingdom with respect to certificates of like grade, and shall be subject to be suspended or cancelled by the Board of Trade for like offences or causes, and in like manner, as certificates granted under the Merchant Shipping Act, 1894.

(2) All the provisions of the Merchant Shipping Act, 1894, and of any order of His Majesty in Council made thereunder shall apply to such certificates.

637. Every such certificate may also be suspended or cancelled by the Minister upon proof of negligence, unskilfulness or drunkenness, or in consequence of the finding of a coroner's inquest, and also for any other cause deemed sufficient by the Minister and certified as such by him.

638. Certificates of competency as first or second-class engineers in sea-going ships, granted by the Board of Trade under any of the Acts of the United Kingdom relating to merchant shipping, shall, while in force under the Merchant Shipping Act, 1894, be of the same force and effect in Canada as if granted under this Part: Provided that the Minister may order an investigation into the misconduct or incompetency of an engineer holding one of such certificates, to be held by one of the inspectors, and may, on the report of such inspector, cancel or suspend such certificate so far as Canada is concerned.

#### Classification of Engineers.

639. Engineers shall be classified according to the following grades:—

First-class engineers;

Second-class engineers;

Third-class engineers;

Fourth-class engineers;

Engineers with temporary certificates.

640. A first-class engineer shall be qualified to take charge of any steamboat.

(2) A second-class engineer shall be qualified to take charge of any freight steamboat, or of any other steamboat, except a sea-going passenger steamboat of more than one hundred nominal horse-power.

(3) A third-class engineer shall not be qualified to take charge of any sea-going steamboat, but shall be qualified to take charge of,—

(a) any passenger steamboat of not more than thirty nominal horse-power, having single cylinder engines; or,

(b) any passenger steamboat of not more than forty-five nominal horse-power, having compound engines; or,

(c) any freight steamboat or tugboat of not more than seventy-five nominal horse-power. 1908, c. 65, s. 19.

(4) A fourth-class engineer may act in the capacity of assistant engineer on any steamboat except a sea-going passenger steamboat of more than one hundred nominal horse-power, but shall not act as chief engineer on any steamboat requiring under this Part engineers holding certificates.

#### Employment of Certificated Engineers.

641. No person shall employ another as engineer, and no person shall serve as engineer on any passenger steamboat, of whatever tonnage, or on any freight boat of over one hundred and fifty tons gross tonnage, or on any steamboat having an engine of over ten nominal horse-power, if of the single cylinder type, or over twenty nominal horse-power, if of the compound type, unless the person employed or serving as engineer holds a certificate of competency granted under this Part, or under the Acts of the United Kingdom, for the grade in which he is to be employed, or for a higher grade: Provided that, if a steamboat leaves a port with a complement of engineers and, on her voyage, is deprived of their services, or of the services of any of them, without the consent, fault or collusion of the master, owner or any one interested in the steamboat, the deficiency may be temporarily supplied until the steamboat reaches her port of destination, unless, in the meantime, engineers holding such certificates can be obtained. 1908, c. 65, s. 20.

642. No one who holds a certificate as engineer, or a temporary certificate to act as engineer, under the Steamboat Inspection Act or under this Part, shall transfer such certificate or temporary certificate to any other person; and no person shall accept or be a party to the transfer of any such certificate or temporary certificate.

#### Offences and Penalties.

656. Any master or owner of a steamboat liable to inspection under this Part who neglects to cause the boiler and machinery and the hull and equipment thereof, or the boilers and machinery alone, as the case may be, to be inspected at least once every year, or to deliver one of the certificates of inspection to the chief officer of Customs at the port where such inspection is made, or at which such steamboat arrives next after such inspection, when it has not been made in such port, shall be liable to a penalty not exceeding five hundred dollars and not less than one hundred dollars for every neglect to cause such inspection to be made and a certificate thereof to be delivered to the proper officer of Customs.

657. In case the master, owner or engineer of any steamboat, or any person in charge thereof, omits, at the earliest opportunity after the occurrence of any event whereby the hull, or the machinery or boiler thereof, or any part of any or either of the same is, in any material degree, injured, strained or weakened, to report such occurrence, in writing to the office of the inspector who issued the certificate, the master shall be deemed guilty of misconduct and the owner of the steamboat shall be liable to a penalty not exceeding five hundred dollars and not less than fifty dollars and costs; and if the injury is in respect to the boiler, machinery or any part thereof, the engineer shall be deemed guilty of negligence. 1908, c. 65, s. 21.

658. Every owner, officer or engineer or other person on board of any steamboat and in charge or appearing to be in charge of such steamboat, or of the boiler or machinery thereof, who refuses to answer, or falsely answers any questions asked of him by any inspector at any time when inspecting, visiting or examining any boiler and machinery or the hull of any steamboat, when such questions are pertinent and relate to the boiler, machinery or hull, or to any accident that has happened thereto, or who prevents any such inspection, shall be liable to a penalty of fifty dollars.

659. The master, owner or person in charge for the time being of any steamboat which makes,—

(a) any trip or voyage before the certificate of inspection required by this Part has been issued; or,

(b) any trip or voyage or any part thereof at any time or during any period not covered by such certificate; or,

(c) any trip or voyage or any part thereof, on any waters beyond the limits for which the certificate of inspection required by this Part is issued, shall for each such offence, be liable to a penalty not exceeding five hundred dollars and not less than fifty dollars.

(2) If such penalty and the costs of conviction are not paid forthwith, the steamboat shall, subject to the directions of the Minister, be liable to be seized and sold by any officer of Customs or any other person thereto directed by the Minister; and the said penalty and the costs of conviction and the costs of such seizure and sale shall be paid out of the proceeds of such sale, and the surplus, if any, shall be paid over to the owner of the steamboat.

660. The owner of any steamboat inspected under this Part, the equipment whereof is at any time, after an inspection made by an inspector or any person thereunto directed by the Minister, not such as was approved by the inspector when he issued the certificate of inspection then current, shall be liable to a penalty of not less than fifty dollars and not more than one hundred dollars.

661. Any engineer, master or person in charge of a steamboat, who, when such steamboat is stopped for over five minutes, neglects to open the safety-valve, so as to keep steam in the boiler below the pressure limited by the inspector's certificate, shall be liable to a penalty not exceeding one hundred dollars and not less than fifty dollars.

662. Every master and engineer of any steamboat who, at any time, allows the pressure of steam to which the boiler of such steamboat is subjected, to exceed the pressure limited by her certificate, or who alters or conceals or otherwise deals with the steam gauge, so as to prevent the actual pressure of steam from being seen and ascertained by any passenger shall be liable to a penalty not exceeding one hundred dollars and not less than fifty dollars for each offence.

663. Every master and engineer of a steamboat who alters or deals with the safety valves, or allows them to be altered or dealt with in any manner whereby a greater pressure of steam may be obtained on the boiler than the pressure allowed by the certificate of inspection issued to such steamboat shall be liable for each offence to a penalty not exceeding one hundred dollars and not less than fifty dollars.

664. Any owner or master of any steamboat who fails to comply with any of the provisions of this Part respecting the precautions to be taken throughout such steamboat to guard against danger from fire, shall be liable to a penalty not exceeding one hundred dollars and not less than fifty dollars.

665. Every engineer holding a certificate of competency whether granted under this Part or under the Acts of the United Kingdom relating to merchant shipping, employed on any steamboat to which this Part applies, who neglects to keep his certificate of competency posted up, framed and protected by glass, in some conspicuous place in or near the engine-room of such steamboat, shall be liable to a penalty of twenty dollars.

666. Except in the case of a steamboat leaving port with a complement of engineers, being thereafter deprived of the service or the services of any such engineers without the consent, fault or collusion of the master, owner or any one interested in the steamboat, every person who employs another as engineer, or any person who serves as an engineer on any passenger steamboat of whatever tonnage or on any freight boat of over one hundred and fifty tons gross tonnage, or on any steamboat having an engine of over ten nominal horse-power, if of the single cylinder type, or over twenty nominal horse-power, if of the compound type, unless the person employed or serving as engineer holds a certificate of competency granted under this Part, or under the Acts of the United Kingdom, for the grade in which he is to be employed, or for a higher grade, shall be liable to a penalty not exceeding one hundred dollars and not less than fifty dollars and costs; but no person holding any temporary certificate, and no person who employs him as holding such certificate, shall be liable to such penalty if he is acting on the vessel and within the limits specified in the said certificate. 1908, c. 65, s. 22.

667. Any person holding a certificate as engineer, or a temporary certificate to act as engineer, under the provisions of this Part, who transfers such certificate to any other person, and any person who accepts or is a party to the transfer of any such certificate, shall be liable to a penalty not exceeding five hundred dollars and not less than fifty dollars, and shall be imprisoned for a period not exceeding two months if such penalty is not paid forthwith.

668. Every person who knowingly removes, or causes to be removed or is a party to removing any steamboat or vessel which was running in violation of any of the provisions of this Part, or of any order in council made thereunder, and seized or detained by any chief officer of Customs or other person thereunto directed in writing by the Minister, shall be liable to a penalty of not more than five hundred dollars and not less than fifty dollars, or to imprisonment for a term not exceeding six months.

669. Any person who impedes, prevents, obstructs or resists any inspector or chief officer of Customs or other person thereunto appointed in writing by the Minister, in the performance of any duty under any of the provisions of this Part, or of any order in council made thereunder, shall be liable to a penalty of not more than five hundred dollars and not less than fifty dollars or to imprisonment for a term not exceeding three months or to both.

670. Every owner of a steamboat, who, after the Minister has ordered that such steamboat shall not be used or run until permitted by him, runs or uses such steamboat in violation of such order, shall incur a penalty of not more than five hundred dollars and not less than fifty dollars, and such steamboat shall be liable to seizure by the chief officer of Customs at any port or place or by any person thereunto authorized by the Minister.

675. Every inspector who wilfully, or through any culpable neglect of duty, makes or confirms any false statement in any certificate under this Part, shall incur a penalty of two hundred dollars.

676. In every case in which a conviction has been secured against the owner, lessee or charterer of a steamboat for a violation of any of the provisions of this Part, and a money penalty imposed, such steamboat shall, if the penalty is not paid forthwith, be liable to be seized and, after such reasonable notice as the Minister may, in each case, prescribe, may be sold by any chief officer of Customs or any other person authorized for such purposes in writing by the Minister, and such chief officer or person may, by bill of sale, give the purchaser a valid title to such steamboat free from any mortgage or other claim on the vessel which at the time of such sale may be in existence.

(2) Any surplus remaining from the proceeds of sale after paying the amount of the said penalty and the costs of conviction together with the costs of such seizure and sale shall be paid over to the owner of such steamboat, or the mortgagee, as the case may be.

677. Except when otherwise especially provided, the owner or master of any steamboat in Canada shall, for any violation in respect of such steamboat, on any one voyage or trip thereof, of any of the provisions of this Part, or of any order in council made thereunder, be liable to a penalty not exceeding one hundred dollars and not less than fifty dollars.

678. Any chief officer of Customs or any inspector may detain any steamboat in respect of which the provisions of this Part or any order in council made thereunder have not been fully complied with, or of which the boiler or machinery or the hull, by reason of any injury or other cause, have, in an inspector's opinion, become unsafe.

679. Whenever an inspector gives notice in writing to any chief officer of Customs that any of the provisions of this Part or any order in council made thereunder, have not been fully complied with in respect to any steamboat, such chief officer of Customs shall seize and detain such steamboat until he receives the certificate in writing of such inspector, to the effect that such provisions have been fully complied with in respect to such steamboat.

680. All penalties incurred under this Part may be recovered with costs in a summary manner under the provisions of Part XV. of the Criminal Code, in the name of His Majesty, by an inspector or any person aggrieved by any act, neglect or omission, or by any person named in writing for the purpose by the Minister.

(2) Any prosecution for any penalty under this Part may be brought before any judge of a county court, judge of the sessions of the peace, stipendiary or police magistrate, or two justices of the peace; and in default of immediate payment of any penalty, and costs, such judge, magistrate or justices may commit the offender to gaol for any term not exceeding three months, unless such penalty and costs are sooner paid.

681. All penalties recovered under this Part shall be paid to the Minister of Finance, and shall be by him placed to the credit of the Consolidated Revenue Fund of Canada: Provided that the Governor in Council may, if he sees fit, authorize the payment of a portion of any such penalty to the informer, if he is not an inspector.

#### General.

682. Any information or complaint in respect of any offence against the provisions of this Part may be laid or made within twelve months of the time when the matter of the information or complaint arose.

684. The Minister may order an investigation to be made by any person or persons into the cause of any accident on any steamboat whether attended with loss of life or not.

(2) The person or persons so appointed may summon witnesses and compel their attendance before him or them by the same process as courts of justice, and may administer oaths and examine witnesses touching the cause of such accident and report thereon to the Minister.

685. The chairman of the Board shall, as often as the Minister may direct, furnish a report of the proceedings of the Board, and a return of all steamboats inspected, and of all penalties collected under this Part.

686. Each inspector shall make monthly returns to the chairman of the Board of all steamboats inspected by him, their tonnage and power, with general descriptions of their machinery and hulls, and a statement of the fees collected upon the same, and any other information which the Minister may direct.

687. The tonnage of every British steamship for the purpose of this Part, shall be the tonnage ascertained by the rules of measurement prescribed by the Merchant Shipping Act, 1894; but, in the case of foreign steamships, the tonnage indicated by their national papers shall be the tonnage for the purpose of this Part.

(Forms omitted.)

### Inspection of Ships—Hulls and Equipment.

Chapter 113.—688. In this Part unless the context otherwise requires,—

(a) 'inspector' means an inspector appointed under this Part by the Governor in Council to inspect the hulls and equipments of ships;

(b) 'ship' or 'ships' includes tow-barges and every description of vessel used in navigation, not propelled by oars or wholly or partly by steam, and registered in Canada.

689. Except as therein otherwise provided, this Part shall not apply to ships—

(a) belonging to His Majesty; or,

(b) classed in Lloyds register of British and foreign shipping; or,

(c) classed in any other corporation or association for the survey and registry of ships approved by the Governor in Council.

(2) If any such ship ceases to be classed as aforesaid she shall be subject to this Part.

#### Inspector.

690. The Governor in Council may from time to time appoint any port warden, harbour master, inspector of hulls and equipment of steamboats or officers of the Department of Marine and Fisheries to inspect the hulls and equipment of ships.

(2) No person so appointed shall be interested in the building or construction of hulls of ships, or of any article or thing forming part of, or properly belonging to or connected with the equipment of a ship.

#### Regulations.

691. The Governor in Council may, from time to time, make rules and regulations for or relating to the inspection of ships for the purpose of ascertaining whether they are in a seaworthy condition.

(2) Such inspection shall comprise the hull, and the masts, spars, sails, rigging, anchors, cables, chains, boats and other parts of the outfit or equipment.

#### Report to Inspector.

692. The master or owner of a ship, or the person in charge thereof, shall, at the earliest opportunity after the occurrence of any event whereby the hull, masts and spars or equipment or any part of the same is, in any material degree, injured, strained or weakened, report such occurrence to an inspector or the collector of Customs.

#### Powers of Inspector.

693. Every inspector may, for the purpose of inspecting, at any time go on board of any ship liable to inspection under this Part and inspect or examine the same and every part thereof, and the machinery, equipment and cargo, and may require the unloading or removal of any cargo, ballast or tackle, and may ask of any or all of the owners or officers of such ship, or other person on board thereof and in charge or appearing to be in charge thereof, such pertinent questions concerning the same, or concerning any accident that has happened thereto, as he thinks fit.

(2) Every such person shall fully and truly answer every such question so put to him.

694. Every inspector may, at any time visit any ship, whether registered in Canada or elsewhere, and whether propelled wholly or in part by steam, except ships belonging to His Majesty; and although any such ship is classed in Lloyds register of British and foreign shipping, or in any other corporation or association for the survey and register of ships approved by the Governor in Council, and inspect and examine the tackle, machinery or apparatus used for the loading or unloading thereof, and, if he considers such tackle, machinery or apparatus defective, so as to be dangerous to life, he shall report thereon to the Minister who may order that such tackle, machinery and apparatus shall not be used until permitted by the Minister.



695. Every inspector may demand of the owner or master or other person in charge of any ship which he is inspecting, the production of the certificate of registry of such ship, and such owner or master or person in charge shall thereupon produce and exhibit the same to such inspector.

696. If an inspector reports to the Minister in writing that he considers that any ship liable to inspection under this Part could not make a voyage or trip from any port or place in Canada without endangering life or property, stating the facts on which his report is based, the Minister may direct such ship to be detained, and the inspector may thereupon detain such ship and notify a chief officer of Customs at any port.

(2) No ship so detained shall go on any voyage or trip as aforesaid, or be used for the purposes of navigation, until permitted by the Minister.

#### Offences and Penalties.

697. Any master or owner of any ship detained under the provisions of the last preceding section, or other person, who takes or sends, or attempts to take or send, or is a party to taking or sending, or to attempting to take or send such ship on a voyage or trip from any port or place in Canada without the permission of the Minister, shall incur a penalty of two hundred dollars.

698. When a ship is found liable by a conviction for the penalty in the last preceding section mentioned, the Minister may direct any chief officer of Customs or any inspector to seize and sell such ship.

(2) Upon such order, if given to the chief officer of Customs, it shall be the duty of such chief officer of Customs to seize and sell such ship, in the same manner as goods are seized and sold for non-payment of Customs duties in Canada; and such chief officer of Customs shall account and pay over all moneys received from such sale to the Minister of Finance, to form part of the Consolidated Revenue Fund of Canada.

(3) If such order is given to an inspector, the ship may be seized by such inspector, who shall have the same powers as a chief officer of Customs would have in like circumstances, and shall make to the Minister a report of his seizure, whereupon such report may be communicated by the Minister to the Minister of Customs, and like proceedings may be had for the forfeiture and sale of the vessel seized as if it had been duly seized by a chief officer of Customs.

699. If the master or owner of a ship, or the person in charge thereof, omits to report to an inspector, or to the collector of Customs, at the earliest opportunity, the occurrence of any event whereby the hull, masts and spars or equipment, or any part of the same is in any material degree injured, strained or weakened, the owner of such ship shall incur a penalty not exceeding one hundred dollars, and such ship shall be liable for such penalty.

700. Every owner or officer of a ship, or other person on board thereof and in charge or appearing to be in charge thereof, who refuses to answer or falsely answers any question asked of him by any inspector when inspecting or examining such ship or any part thereof, or the machinery, equipment or cargo thereof, when such questions are pertinent and relate to such ship or any part thereof, or the machinery, equipment or cargo thereof or to any accident that has happened thereto, or who prevents any such inspection or obstructs or impedes any inspector in making such inspection, or who, being in charge, refuses to render such inspector reasonable assistance in making such survey or examination, shall incur a penalty of two hundred dollars.

701. Any tackle, machinery or apparatus used in violation of any order made by the Minister under the authority of this Part, prohibiting the use of such tackle, machinery or apparatus until permitted by the Minister, shall be liable to forfeiture and seizure by the chief officer of Customs at any port, and may thereupon be sold in the same way and under like provision as goods liable to forfeiture for non-payment of Customs duties; and the owner of the ship, for the loading or unloading of which such tackle, machinery or apparatus is used in violation of such order, shall incur a penalty of one hundred dollars, and such ship shall be liable for such penalty.

702. Penalties under this Part may be recovered upon summary conviction.

(2) Any information or complaint in respect of any offence against the provisions of this Part may, whenever the prosecution, suit or proceeding is instituted under Part XV of the Criminal Code, be laid or made within twelve months of the time when the matter of the information or complaint arose.

#### Safety of Ships and Prevention of Accidents on Board.

Chapter 113.—703. In this Part, unless the context otherwise requires,—

(h) 'steamer' includes any vessel registered in Canada, propelled wholly or in part by steam, and carrying passengers to or from any place or places in Canada, to or from any place or places out of Canada, not being in the United Kingdom, or between any place or places in Canada.

## Application.

704. Nothing in this Part contained shall apply to ships belonging to His Majesty, nor to yachts used exclusively for pleasure or private use without hire or remuneration.

## Survey of Ships.

705. If complaint is made to the Minister that any ship registered in Canada is, by reason of the defective condition of her hull or equipments, or by reason of her being over-loaded or improperly loaded, unfit to proceed to sea, or on any voyage on any waters within the limits of Canada, the Minister may cause such ship to be surveyed by a person appointed by him.

706. Every such complaint shall be in writing, and shall state the name and address of the complainant; and a copy of the complaint, including the name and address of the complainant, shall, before or during such survey, be given by the Minister to the master or to the owner or one of the owners of the ship.

707. The Minister may exact from the complainant, before such survey, if he thinks fit so to do, a deposit of money to defray the expenses of the survey, and to pay any loss which may be sustained by the owner on account of any detention, or such security for the payment of such expenses and loss as he deems sufficient.

708. If the person making such survey reports that the hull or equipments of such ship is or are in such a state, or that such ship is so loaded that she could not proceed to sea or on any such voyage, as the case may be, without serious danger to human life, the Minister may declare such ship to be unseaworthy, and thereupon any principal officer of Customs may detain such ship.

709. If, upon such survey, such ship is found to be seaworthy, the expenses of the survey shall be paid to the Minister by the person making the complaint, which payment shall not prejudice any right of suit or action against such complainant by any person aggrieved by the complaint, but, if such ship is found to be unseaworthy, the expenses of the survey shall be paid to the Minister by the owner of the ship.

710. Any shipowner who is dissatisfied with the decision of any person so appointed by the Minister may appeal to the Exchequer Court on its Admiralty side for the district where such ship was surveyed; and such court may, if it thinks fit, appoint a competent person or competent persons to survey such ship anew.

(2) Upon any such appeal, such court may make such order as to the detention or discharge of the ship, as to the payment whether by the Crown or otherwise of any costs or damages occasioned by her detention, and as to the payment of the expenses of the original survey, and of the survey anew, as to such court seems just.

711. Any person so appointed either by the Minister or by the Exchequer Court on its Admiralty side to survey a ship, may, in the execution of his duty, go on board such ship at all reasonable times and inspect the same or any part thereof, or any of the equipments, cargo or articles on board thereof, or the certificate of registry thereof; but shall not, in such inspection, unnecessarily detain or delay the ship in proceeding on her voyage; and, if such person considers it necessary so to do, he may require the ship to be so dealt with that he may be able to inspect every part of the hull thereof.

[Sections 713, 722 and 723 deal with the shipment of explosives, etc.]

## Offences and Penalties.

718. Every person who hinders any person appointed under the authority of this Part to survey a ship, either by the Minister or by the Exchequer Court on its Admiralty side, from going on board such ship, or otherwise impedes him in the execution of his duty, shall, for every such offence, incur a penalty not exceeding twenty dollars.

720. Every person on board a steamer, who without reasonable excuse, proof whereof shall lie on him, does or causes to be done, anything in such manner as to obstruct or injure any part of the machinery or tackle of the steamer, or to obstruct, impede or molest the crew, or any of them in the navigation or management of such steamer or otherwise in the execution of their duty on or about the steamer, shall, for every such offence, incur a penalty not exceeding one hundred dollars.

721. The master or other officer of any steamer, and all persons called by him to his assistance, may detain any offender against any of the provisions of the two sections last preceding, whose name and address are unknown to such master or officer, and may convey such offender with all convenient despatch before some justice or justices of the peace; and any offender so conveyed before such justice or justices under this section, shall be dealt with as if arrested, and brought before them on his or their warrant, under Part XV of the Criminal Code.

(2) Any justice of the peace shall have jurisdiction under the two last preceding sections, either in the place where the offence was committed, or, if committed while the steamer is under way, then in the place where it next stops.



**Wrecks—Investigations into Shipping Casualties.**

Chapter 113 with amendments—732. In this Part, unless the context otherwise requires,—

- (a) 'vessel' includes every description of vessel used in navigation;
- (f) 'wreck' includes cargo, stores and tackle of any such vessel and of all parts of the vessel separated therefrom, and also the property of shipwrecked persons;
- (i) 'inland waters' includes all the rivers, lakes and other navigable waters within Canada;
- (j) 'coasts' includes the sea coast and the salt-water bays, gulfs and harbours on the sea coast;
- (k) 'pilot' means any person not belonging to a ship who has the conduct thereof;
- (l) 'certificate' includes license and branch license. 1908, c. 65, s. 26.

**Superintendence.**

733. The Minister shall, throughout Canada, have the general superintendence of all matters relating to wrecks and shipping casualties.

**Shipping Casualties.**

776. A shipping casualty shall be deemed to occur,—

- (a) whenever any ship is lost, abandoned, stranded or damaged in any of the inland waters of Canada or on or near the coasts of Canada, or on a voyage to a port in Canada;
- (b) whenever any ship causes loss or damage to any other ship in, on or near such inland waters or coasts;
- (c) whenever, by reason of any casualty happening to or on board of any ship in, on or near such inland waters or coast, loss of life ensues;
- (d) whenever any such loss, abandonment, stranding, damage or casualty happens elsewhere, and any competent witness thereof arrives or is found at any place in Canada;
- (e) when any loss of life occurs by reason of any casualty happening to or on board any boat belonging to a fishing vessel or other vessel registered in Canada;
- (f) when any British ship is lost or supposed to have been lost, and any evidence is obtainable in Canada as to the circumstances under which she proceeded to sea or was last heard of.

**Preliminary Inquiry.**

777. The Minister may appoint a principal officer of Customs or any officer of the Government of Canada, or any person to make preliminary inquiries respecting such shipping casualties, and may define the territorial jurisdiction of any such officer or person.

(2) If, upon a preliminary inquiry, the officer holding it is of opinion that any loss, or damage, or the stranding of any ship, or any loss of life has been caused by the wrongful act or default or by the incapacity of the pilot in charge, or that such pilot has been guilty of any gross act of misconduct or drunkenness, the license of such pilot may be suspended by such officer until a formal investigation under this Part has been held and a further decision rendered upon the case: Provided that the term of suspension shall not exceed a period of three days, unless the Minister notifies such pilot within that time that a formal investigation will be held.

778. Every such officer or person may for the purpose of holding such preliminary inquiry,—

- (a) go on board any vessel or wreck, and inspect it or any part thereof, or any of the machinery, boats, equipments, lading, or articles on board thereof, the boarding or inspection of which appears to him to be requisite for the purpose of his inquiry, not unnecessarily detaining any such vessel from proceeding on any voyage;
- (b) enter and inspect any premises, the entry and inspection of which appear to him requisite for the purpose of the inquiry;
- (c) require by summons under his hand the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and require answers or returns to any inquiries he thinks fit to make;
- (d) require and enforce the production of all books, papers or documents which he considers important for such purpose;

(e) administer oaths, or, in lieu of requiring and administering an oath, require every person examined by him to make and subscribe a solemn affirmation or declaration of the truth of the statement made by him in his examination.

779. Every witness so summoned shall be allowed such expenses as would be allowed to any witness attending on subpoena to give evidence before any court of record in the province of Canada in which the preliminary inquiry is held.

(2) In case of any dispute as to the amount of such expenses, the dispute shall be referred by such officer or person to the nearest prothonotary, clerk, master, or other taxing officer of any court of record within the jurisdiction of which the attendance is required, who, on a request made to him for that purpose under the hand of such officer or person, shall ascertain and certify the proper amount of such expenses.

780. Upon the conclusion of any such inquiry, the officer or person who made it shall send to the Minister a report containing a full statement of the case, and of his opinion thereon, accompanied by such report of or extracts from the evidence and such observations as he thinks fit.

#### Formal Investigation.

781. The Minister may appoint any officer of the Government of Canada, or any judge of any court of record, or any local judge in admiralty of the Exchequer Court of Canada, or any stipendiary or police magistrate, to be a commissioner to hold formal investigations, or any formal investigation, and a commissioner shall for that purpose be a court. 1908, c. 65, s. 27.

(2) In any case arising before or after the passage of this Act, which the Minister considers to be of extreme gravity and special importance, he may appoint two or more fit persons to be commissioners to hold a formal investigation, and the commissioners so appointed shall for that purpose be a court and such court shall, in addition to its judgment, make a full and detailed report to the Minister upon the circumstances of the case, and may make such recommendations as may in its opinion be proper in the premises. 1914, c. 49, s. 1.

782. A court so appointed is authorized to hold a formal investigation upon one being ordered by the Minister in the following cases:—

(a) a shipping casualty;

(b) where a master, mate, pilot or engineer has been charged with incompetency, misconduct or default while serving on board any British ship on or near the coasts of Canada or in the course of a voyage to a port in Canada;

(c) where a master, mate, pilot or engineer is charged with incompetency, misconduct or default while serving as an officer on board a British ship registered in Canada;

(d) where a master, mate, pilot or engineer is charged with incompetency, misconduct or default while serving on board a British ship found in Canada;

(e) where, in case of a collision, the master or certificated officer or pilot in charge of a vessel fails, without reasonable cause, to render to the other vessel, her master, crew and passengers, such assistance as is practicable and necessary to save them from any danger caused by the collision and to stay by the vessel until he has ascertained that she has no need of further assistance, and also to give to the master or person in charge of the other vessel the name of his own vessel and of the port to which he belongs and also the names of the ports from which he comes and to which he is bound;

(f) where the Minister has reason to believe that any master, mate, pilot or engineer is from any cause unfit or incapable to discharge his duties. 1908, c. 65, s. 28.

782a. It shall not be necessary to hold a preliminary investigation before a formal investigation is held. 1908, c. 65, s. 29.

783. The Minister may at any time appoint one or more assessors of nautical, engineering or other special skill or knowledge, for the purpose of assisting such courts in holding formal investigations into shipping casualties, and such appointments shall be in force for three years.

(2) An assessor shall, from time to time, be eligible for reappointment; and the Minister may, at any time, cancel the appointment of an assessor.

784. A court holding a formal investigation into a shipping casualty shall hold it with two or more assessors to be selected for that purpose by the Minister. Such assessors shall have nautical, engineering, or special skill in the matter to be inquired into, and the court shall be the sole judge as to whether any assessor possesses the requisite skill. 1908, c. 65, s. 30.

785. (Repealed by 1908, c. 65, s. 31.)

786. Every commissioner and assessor, before entering upon his duties, shall take and subscribe the following oath:—

"I (A.B.) do swear (or solemnly affirm) that I will perform the duties of commissioner (or assessor) under the Canada Shipping Act, and that I will act faithfully in

that capacity, without partiality, fear, favour or affection. So help me God." 1908, c. 65, s. 32.

787. Formal investigations shall be held in some town hall or county court-house, or public building, or in some other suitable place to be determined by the court.

788. Whenever a formal investigation is likely to involve a question as to cancelling or suspending the certificate of competency or service of any master, mate, pilot, or engineer, he shall be furnished with a copy of the report or statement of the case upon which the investigation has been ordered.

789. Such court shall have the power of summoning before it any person, and of requiring him to give evidence on oath, either orally or in writing, and to produce such documents and things as such court deems requisite to the full investigation of the matters into which it is appointed to examine.

790. Such court shall have the same power to enforce the attendance of witnesses and to compel them to give evidence as is vested in any court of justice in civil cases.

(2) The proceedings of such court shall be assimilated as far as possible to those of the ordinary courts of justice, with the like publicity.

791. Such court shall have all the powers conferred by section four hundred and seventy-eight of the Merchant Shipping Act, 1894, on any court authorized by the legislature of any British possession to make inquiries as to shipwrecks or other casualties affecting ships, or as to charges of incompetency or misconduct on the part of masters, mates, pilots or engineers of ships.

792. Every witness summoned under this Part before such court shall be allowed such expenses as would be allowed to any witness attending on subpoena to give evidence before any court of record in the province of Canada in which the formal investigation is held.

793. When the Minister, at the request of any person, orders a formal investigation, it shall be the duty of such person to render such assistance to the court as is in his power.

794. The court may make such order as it thinks fit respecting the costs of such investigation, or the rehearing thereof, or any part of such investigation or rehearing, and such order shall be enforced by the court as an order for costs under Part XV of the Criminal Code.

795. Every formal investigation shall be conducted in such manner that, if a charge is made against any person, such person shall have an opportunity of making a defence.

796. The court may at any time, either during or after a formal investigation, call upon any master, mate, pilot or engineer, to deliver his certificate to the court. 1908, c. 65, s. 33.

797. Where any formal investigation involves a question as to the cancelling or suspending of a certificate, the court shall, at the conclusion of the case or so soon afterwards as possible, state in open court the decision to which they have come with respect to the cancelling or suspending thereof.

(2) Where a formal investigation is held into a shipping casualty, each assessor shall either sign the report or state in writing his dissent therefrom and the reasons for that dissent.

798. The court shall, upon application being made therefor, furnish free of charge to any master, mate, pilot or engineer, whose certificate has been cancelled or suspended or to his agent, a copy of the judgment of the court. 1908, c. 65, s. 34.

799. The court shall in all cases send the judgment in the case, with the evidence, to the Minister, and if it determines to cancel or suspend any certificate, and the certificate has been delivered to the court, the certificate shall also be sent to the Minister. 1908, c. 65, s. 35.

800. The Minister shall, if such certificate,—

(a) has been issued by the Government of Canada, retain the same;

(b) has been issued by the Board of Trade, forward it, with the report and evidence to the Board of Trade; and,

(c) has been issued by any British possession other than Canada, send the same, together with a full report upon the case and a copy of the evidence, to the governor of such British possession.

801. The certificate of a master, mate, pilot or engineer, may be cancelled or suspended by a court holding a formal investigation,—

(a) if the court finds that any loss, or damage, or the abandonment or stranding of any ship, or any loss of life has been caused by the wrongful act or default of such master, mate, pilot or engineer; or,

(b) if it finds that such master, mate, pilot or engineer is incompetent, or has been guilty of any gross act of misconduct, drunkenness or tyranny; or,

(c) if it finds that such master, mate, pilot or engineer in a case of collision has failed to render the assistance or to give the information required by law in that behalf.

(2) In the case of a shipping casualty, the court shall not cancel or suspend a certificate unless one at least of the assessors concurs in the finding of the court.

(3) A certificate shall not be cancelled or suspended under this section unless the holder of the certificate has had an opportunity of making a defence. 1908, c. 65, s. 36.

#### Powers of the Minister.

802. The Minister may make general rules for the carrying into effect of the enactments relating to formal investigations or to the rehearing of any formal investigation, and, in particular, with respect to the appointment and summoning of assessors, the procedure, the parties, the persons allowed to appear and the notice to the parties or to persons affected.

803. The Minister may suspend or cancel the Canadian certificate of any master, mate, pilot, or engineer if it is shown that he has been convicted of an offence.

804. The Minister may, if he thinks that the justice of the cases requires it, re-issue and return the Canadian certificate of a master, mate, pilot or engineer which has been cancelled or suspended, or shorten the time for which it is suspended, or grant in place thereof a certificate of the same or any lower grade.

805. In any case where a formal investigation has been held, the Minister may order the investigation to be reheard, either generally or as to any part thereof; and he shall so order,—

(a) if new and important evidence which could not be produced at the investigation has been discovered; or

(b) if, for any other reason, there has been in his opinion ground for suspecting that a miscarriage of justice has occurred.

806. The Minister may order the case to be reheard by the court by which the case was heard in the first instance, or may appoint another commissioner and select the same or other assessors to rehear the case. 1908, c. 65, s. 37.

806a. There shall be no appeal from any decision of a court holding any formal investigation under this Act, except to the Minister for a rehearing under the provisions of section 806.

(2) No proceeding or judgment of a court in or upon any formal investigation shall be quashed or set aside for any want of form, nor shall any such proceeding or judgment be removed by certiorari or otherwise into any court; and no writ of prohibition shall issue to any court constituted under this Act in respect of any proceeding or judgment in or upon any formal investigation, nor shall such proceeding or judgment be subject to any review except by the Minister as aforesaid. 1908, c. 65, s. 38.

807. The Minister may, if, in any case, he thinks fit so to do, pay the costs of any such formal investigation out of any sums voted by Parliament for the purpose of holding investigations into shipping casualties.

808. The provisions of this Part relating to the manner in which such certificates shall be dealt with shall, so far as they are applicable, extend to pilots' licenses which shall be subject to cancellation and suspension in the same manner as the certificate of a master, mate or engineer, is subject to cancellation and suspension under this Part.

(2) The court may, instead of cancelling or suspending any such license, fine any licensed pilot in any sum not exceeding four hundred dollars and not less than fifty dollars, and may make order for the payment of such fine by instalments or otherwise, as it deems expedient.

(3) Any penalty incurred under this section may be recovered in the name of His Majesty in a summary manner with costs under the provisions of Part XV of the Criminal Code.

809. An investigation or inquiry shall not be held under Part VI into any matter which has once been the subject of an investigation or inquiry under this Part.

820. Every master, mate, pilot or engineer who fails to deliver his certificate to the court when so required, either during or after a formal investigation, shall incur a penalty not exceeding two hundred dollars. 1908, c. 65, s. 39.

#### Procedure.

821. Every person charged under this Part with an indictable offence may be indicted and prosecuted, and the venue may be laid in any county or district.

822. In any indictment or prosecution under this Part, for any indictable offence in respect of wreck, it shall not be necessary to lay the property in any person, or to identify the alleged wreck as part of any particular vessel or wreck coming from any particular vessel, or as the property of any particular person.

823. Every penalty, forfeiture or punishment, for any offence against this Part, not by this Part declared to be an indictable offence, may be imposed, adjudged and recovered on summary conviction before any two justices of the peace, or any magistrate having the powers of two justices of the peace, under Part XV of the Criminal Code.

## Pensions for Employees.

Chapter 123.—1. This Act may be cited as the Pension Fund Societies Act.

2. In this Act, unless the context otherwise requires 'parent corporation' means the corporation of any whose officers establish or take proceedings to establish a pension fund society under the provisions of this Act.

3. The president, vice-president, general manager, assistant general manager, or person acting as such, cashier, assistant cashier and inspector of any corporation legally transacting business in Canada, under any Act of the Parliament of Canada, or any two of the said officers, with any other of the superior officers, may at any time establish a pension fund society in connection with the administration of such corporation, under the regulations and subject to the supervision and control hereinafter designated, and thereupon they and the employees of such corporation who join the said society and those who replace them from time to time, shall be and be designated as the pension fund society of the corporation; and under such name shall be and become a body corporate and politic.

4. Such of the said officers of any corporation as desire to establish a pension fund society under the provisions of this Act, may make and sign in duplicate a declaration in effect according to the schedule to this Act setting forth therein the names, residences and official positions of the said officers, the name of the parent corporation, the exact name adopted for such society and the place within Canada which is to be its chief place of business, and shall file such declaration in the office of the Secretary of State of Canada, and in the office of the registrar of deeds for the county or registration division within which the chief place of business of the society shall be situated; and the officers who make and sign such declaration shall be the provisional directors of the society, and shall hold office until their successors are appointed or elected.

5. Notice of the incorporation of such society shall also be given by publication in the "Canada Gazette" for four weeks and in such notice shall be given,—

- (a) the exact name adopted by such society;
- (b) the designation of the chief place of business of the society; and,
- (c) the name of the secretary thereof upon whom legal process may be served.

(2) Notice of any change in such place or in the person of the secretary shall also be given in a similar way.

6. The provisional directors shall have power to call the first meeting of the society and at such meeting directors may be elected and by-laws may be passed under the provisions of this Act; and upon the passage of such by-laws a copy thereof and subsequent copies of other by-laws in amendment thereof, in addition thereto or diminution thereof shall also be filed with the Secretary of State within two weeks from the passage thereof.

7. The affairs of the society shall be administered by a board of directors who shall be appointed or elected in such manner, in such number, with such qualifications, and for such period as are determined by the by-laws; but at the first meeting of the society to be held under this Act five directors shall be elected, subject to addition to such number if so sanctioned by the by-laws, and other officers may be appointed in such manner, with such remuneration, and under such provisions touching their powers and duties as are established by the by-laws.

(2) Each contributory to the funds of the society, including the parent corporation, shall have such right to vote at general meetings of the society, on such occasions, subject to such restrictions and on such conditions as are determined by the by-laws.

8. After its incorporation under this Act every pension fund society shall have the power by means of voluntary contribution or otherwise as its by-laws provide, to form a fund, and may invest, hold and administer the same and from out of the said fund may,—

(a) provide for the support and payment of pensions to officers and employees of the parent corporation incapacitated by age or infirmity; and,

(b) upon the death of such officers or employees, pay annuities or gratuities to their widows and minor children or other surviving relatives in such manner as by the by-laws may be specified.

9. Every such incorporated society shall have all corporate powers necessary for the purposes of this Act and may make by-laws not contrary to law defining and regulating in the premises, and prescribing the mode of enforcement of all the rights, powers and duties of,—

- (a) the society;
- (b) the individual members thereof;
- (c) the officers and employees of the parent corporation;
- (d) the widows and orphans or other surviving relatives of such officers and employees;
- (e) the parent corporation.

- (2) Every such incorporated society may also make by-laws as aforesaid for,—  
 (a) the information and maintenance of the said pension fund;  
 (b) the management and distribution thereof generally;  
 (c) enforcing any penalty or forfeiture in the premises; and,  
 (d) the government and ordering of all business and affairs of the society.  
 (3) No such by-law shall have any force or effect unless the same has been sanctioned by the board of directors of the parent corporation.

10. All the powers, authority, rights, penalties and forfeitures whatsoever in the premises, whether of the society or of the individual members thereof, or of the officers and employees thereof or of such widows and orphans and relatives, or of the parent corporation shall be such and such only and may be enforced in such mode and in such mode only, as by such by-laws shall be defined and limited.

11. All the revenues of the society, from whatever source derived, shall be devoted exclusively to the maintenance of the society and the furtherance of the objects aforesaid of the said fund and to no other purpose whatever.

12. The parent corporation may, and is hereby authorized to contribute annually or otherwise to the funds of the said society, by a vote of either its directors or its shareholders.

13. The interest of any member in the funds of the society shall not be transferable or assignable in any manner whatsoever by way of pledge, hypothecation, sale or security.

14. Every society formed under this Act shall at all times when thereunto required by the Governor in Council or by either House of Parliament make a full return of their property and of their receipts and expenditure for such period and with such details and other information as the Governor in Council or either House of Parliament requires.

(Schedule omitted.)

### Labour Organizations—Constitution, Registry, etc.

Chapter 125.—1. This Act may be cited as the Trade Unions Act.

#### Interpretation.

2. In this Act, unless the context otherwise requires, 'trade union' means such combination, whether temporary or permanent, for regulating the relations between workmen and masters, or for imposing restrictive conditions on the conduct of any trade or business, as would, but for this Act, have been deemed to be an unlawful combination by reason of some one or more of its purposes being in restraint of trade.

#### Application.

3. This Act shall not affect,—

- (a) any agreement between partners as to their own business;  
 (b) any agreement between an employer and those employed by him as to such employment;

(c) any agreement in consideration of the sale of the goodwill of a business, or of instruction in any profession, trade or handicraft.

4. Nothing in this Act shall enable any court to entertain any legal proceeding instituted with the object of directly enforcing or recovering damages for the breach of any agreement,—

(a) between members of a trade union, as such, concerning the conditions on which any members for the time being of the trade union shall, or shall not, sell their goods, transact business, employ or be employed;

(b) for the payment by any person of any subscription or penalty to a trade union;  
 (c) for the application of the funds of a trade union,  
 (i) to provide benefits to members, or

(ii) to furnish contributions to any employer or workman, not a member of such trade union, in consideration of such employer or workman acting in conformity with the rules or resolutions of such trade union, or,

(iii) to discharge any fine imposed upon any person by sentence of a court of justice;

(d) made between one trade union and another; or,

(e) bond to secure the performance of any of the above-mentioned agreements.

(2) Nothing in this section shall be deemed to constitute any of the agreements above mentioned unlawful.

5. No Act in force in Canada providing for the constitution and incorporation of charitable, benevolent or provident institutions, shall include or apply to trade unions and this Act shall not apply to any trade union not registered under this Act.



### Constitution and Registry.

6. Any seven or more members of a trade union may, by subscribing their names to the rules of the union and otherwise complying with the provisions of this Act with respect to registry, register such trade union under this Act, but if any one of the purposes of such trade union is unlawful, such registration shall be void.

7. The Registrar General of Canada shall be the Registrar under this Act.

8. With respect to the registry, under this Act, of trade unions, the following provisions shall have effect:—

(a) An application to register the trade union and printed copies of its rules, together with a list of the titles and names of its officers, shall be sent to the Registrar under this Act;

(b) The Registrar, upon being satisfied that the trade union has complied with the regulations respecting registry in force under this Act, shall register such trade union and such rules;

(c) No trade union shall be registered under a name identical with that under which any other trade union has been registered, or so nearly resembling such name as to be likely to deceive the members or the public.

(d) If a trade union which applies to be registered has been in operation for more than a year before the date of such application, there shall be delivered to the Registrar, before the registry thereof, a general statement of the receipts, funds, effects and expenditure of such trade union, in the same form and showing the same particulars as if it was the annual general statement required, as hereinafter mentioned to be transmitted annually to the Registrar;

(e) The Registrar, upon registering such trade union, shall issue a certificate of registry, which certificate, unless it is proved to have been withdrawn or cancelled, shall be conclusive evidence that the regulations of this Act, with respect to registry, have been complied with.

9. The Governor in Council may, from time to time, make regulations respecting registry under this Act, and respecting the seal, if any, to be used for the purpose of such registry and the inspection of documents kept by the Registrar under this Act, and respecting the fees, if any, to be paid on registry, not exceeding the fees specified in the first schedule to this Act, and generally for carrying into effect the provisions of this Act as to registry of trade unions.<sup>1</sup>

10. With respect to the rules of a trade union registered under this Act, the following provisions shall have effect:—

(a) The rules shall contain provisions in respect of the several matters mentioned in the second schedule to this Act;

(b) A copy of the rules shall be delivered by the trade union to every person on demand, on payment of a sum not exceeding twenty-five cents.

11. Every trade union registered under this Act shall have a registered office, to which all communications and notices may be addressed.

12. Notice of the situation of such registered office and of any change therein, shall be given to the Registrar and recorded by him; and until such notice is given, the trade union shall not be deemed to have complied with the provisions of this Act.

### Annual Statement.

13. A general statement of the receipts, funds, effects and expenditure of every trade union registered under this Act shall be transmitted to the Registrar, before the first day of June in each year, and shall show fully the assets and liabilities at the date, and the receipts and expenditure of the trade union, during the year next preceding the date to which it is made out, and separately, the expenditure in respect of the several objects of the trade union, and such statement shall be prepared and made out to such date, in such form and shall comprise such particulars as the Registrar, from time to time, requires.

(2) Every member of and depositor in any such trade union shall be entitled to receive, on application to the secretary or treasurer of the trade union, a copy of such general statement, without making any payment for the same.

14. There shall be sent to the Registrar, together with such general statement, a copy of all new rules and of all alterations of rules, and a statement showing the changes of officers, made by the trade union during the year preceding the date up to which the general statement is made out, and a copy of the rules of the trade union as they exist at that date.

### Respecting Property.

15. Any trade union registered under this Act may purchase, or take upon lease, in the names of the trustees for the time being of such trade union, any land not exceed-

<sup>1</sup> Regulations are in force under this section relative to the registry of trade unions and of alterations in the rules of any union. The regulations also prescribe the forms to be used by trade unions in applying for registration or in making the annual returns, required by the Act, respecting receipts and expenditures, alterations of rules, and changes of officers.

ing one acre, and may sell, exchange, mortgage or let the same; and no purchaser, assignee, mortgagee or tenant shall be bound to inquire whether the trustees have authority for any sale, exchange, mortgage or letting, and the receipt of the trustees shall be a discharge for the money arising therefrom; and for the purposes of this section, every branch of a trade union shall be considered a distinct union.

16. All real and personal property whatsoever belonging to any trade union registered under this Act shall be vested in the trustees for the time being of such trade union, appointed as provided by this Act, for the use and benefit of such trade union and the members thereof, and the real or personal property of any branch of a trade union shall be vested in the trustees of such branch and be under the control of such trustees, their respective executors or administrators, according to their respective claims or interests; and upon the death or removal of any such trustees the same shall vest in the succeeding trustees for the same estate and interest as the former trustees had therein, and subject to the same trusts, without any conveyance or assignment whatsoever, save and except in the case of Dominion stock, which shall be transferred into the names of such new trustees.

#### Procedure.

17. In all actions, suits or indictments or summary proceedings before any court of summary jurisdiction, touching or concerning any property of a trade union or branch, the same shall be stated to be the property of the persons for the time being holding the said office of trustee, in their proper names, as trustees of such trade union without any further description.

18. The trustees of any trade union registered under this Act, or any other officer of such trade union who is authorized so to do by the order thereof, may bring or defend, or cause to be brought or defended, any action, suit, prosecution or complaint, in any court of competent jurisdiction, touching or concerning the property, right or claim to property of the trade union, and may, in all cases concerning the property, real or personal, of such trade union, sue and be sued, plead and be impleaded, in any such court, in their proper names, without other description than the title of their office.

(2) No such action, suit, prosecution or complaint, shall be discontinued or abated by the death or removal from office of such persons, or any of them, but the same shall be proceeded in by or against their successor or successors, as if such death, resignation or removal had not taken place; and such successors shall pay and receive the like costs as if the action, suit, prosecution or complaint had been commenced in their names, for the benefit of, or to be reimbursed from the funds of such trade union.

(3) Any summons to any such trustee or other officer may be served by leaving the same at the registered office of the trade union.

#### Accounting.

19. A trustee of any trade union registered under this Act shall not be liable to make good any deficiency which arises or happens in the funds of such trade union; but such trustee shall be liable only for the moneys actually received by him on account of such trade union.

20. Every treasurer or other officer of a trade union registered under this Act shall, at such times as he is required by the rules of such trade union, or at any other time, when called upon by such trade union so to do, render to the trustees of the trade union, or to the members of such trade union, at a meeting thereof, a just and true account of all moneys received and paid by him since he last rendered a like account, and of the balance then remaining in his hands, and of all bonds or securities of such trade union.

21. The trustees shall cause such account to be audited by some fit and proper person or persons appointed by them; and such treasurer, if thereunto required, upon such account being audited, shall forthwith hand over to the trustees the balance which, on such audit, appears to be due by him, and shall also, if required, hand over to such trustees all securities and effects, books, papers and property of such trade union in his hands or custody; and if he fails so to do, the said trustees may sue such treasurer, in any court of competent jurisdiction, for the balance appearing to have been due from him upon the last account rendered by him, and for all moneys since received by him on account of such trade union, and for the securities and effects, books, papers and property in his hands or custody, leaving him to set off in such action the sums, if any, which he has since paid on account of such trade union; and in such action the trustees shall be entitled to recover their full costs of suit, to be taxed as between solicitor and client.

#### Offences and Penalties.

22. If any officer, member or other person who is, or represents himself to be a member of a trade union registered under this Act, or the nominee, executor, administrator or assignee of a member thereof, or any person whatsoever, by false representa-



tion or imposition, obtains possession of any moneys, securities, books, papers or effects of such trade union, or, having the same in his possession, wilfully withholds or fraudulently misapplies the same, or wilfully applies any part of the same to purposes other than those expressed or directed in the rules of such trade union, or any of them, the magistrate or justices having jurisdiction in cases of complaint for offences under this Act, for the place in which the registered office of the trade union is situate, may, by summary order, upon a complaint made by any person on behalf of such trade union or by the Registrar, order such officer, member or other person, to deliver up all such moneys, securities, books, papers or other effects to the trade union, or to repay the amount of money paid improperly, and to pay, if such magistrate or justices think fit, a further sum of money not exceeding one hundred dollars, together with costs not exceeding five dollars; and in default of such delivery of effects or payment of such amount of money, or payment of such penalty and costs, as aforesaid, the said magistrate or justices may order the person so convicted to be imprisoned, with or without hard labour, for any term not exceeding three months.

(2) Nothing in this Act shall prevent the trade union from proceeding by indictment against the said person; but no person shall be proceeded against by indictment if a conviction has been previously obtained for the same offence under the provisions of this Act.

23. If any trade union registered under this Act is in operation for seven days without having a registered office, to which all communications and notices may be addressed, such trade union and every officer thereof shall each incur a penalty not exceeding twenty-five dollars for every day during which it is so in operation.

24. (a) Every trade union registered under this Act that fails to transmit to the Registrar, before the first day of June in each year, a general statement of its receipts, funds, effects and expenditure, showing fully the assets and liabilities at that date, and the receipts and expenditure of such trade union during the year next preceding, and showing separately the expenditure in respect of the several objects of the trade union, prepared and made out to such date, and in such form, and comprising such particulars as the Registrar from time to time requires, together with a copy of all alterations of rules, and new rules and changes of officers made by the trade union, and a copy of the rules of the trade union as they exist at that date; and,

(b) Every officer of such trade union whose duty it is to transmit any such statement who fails so to do; shall each incur a penalty not exceeding twenty-five dollars for each such offence.

(2) If the secretary or treasurer of any trade union so registered refuses or fails to furnish to any member thereof or depositor therein, upon application, a copy of such general statement, he shall, for each such offence, incur a penalty not exceeding twenty-five dollars.

25. Every person who wilfully makes, or orders to be made, any false entry in or any omission from any such general statement, or in or from the return of such copies or rules or alterations of rules as hereinbefore required shall incur a penalty not exceeding two hundred dollars for each offence.

26. Every person who, with intent to mislead or defraud, gives to any member of a trade union registered under this Act, or to any person intending or applying to become a member of such trade union, a copy of any rules or of any alterations or amendments of the same falsely pretending that the same are the existing rules of such trade union, or that there are no other rules of such trade union, or who, with the intent aforesaid, gives a copy of any rules of any trade union not registered under this Act to any person under the pretense that such rules are the rules of a trade union registered under this Act, is guilty of an indictable offence, and liable to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months, or to both, in the discretion of the court.

#### Mode of Recovery.

27. All offences and penalties under this Act may be prosecuted and recovered by summary conviction.

28. Any complaint or information shall be brought, heard and determined before a stipendiary or police magistrate or other functionary having, by law, the powers of two justices of the peace, if the offence is committed in any city, town or place in which any such magistrate or functionary has jurisdiction; and if the offence is committed elsewhere, then before two justices of the peace.

29. The description of any offence against this Act in the words of this Act shall be sufficient in law.

30. Any exception, exemption, proviso, excuse or qualification, whether it does or does not accompany the description of any offence charged under this Act, may be proved by the defendant, but need not be specified in the information; and if so specified and negatived in such information, no proof in relation to the matters specified and negatived shall be required on the part of the informant or prosecutor.

## General.

31. No person who is a master or the father, son or brother of a master, in the particular trade or business in or in connection with which any offence under this Act is charged to have been committed, shall act as a magistrate or justice of the peace, in any case of complaint or information under this Act, or as a member of any court for hearing any appeal in any such case.

32. The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful, so as to render any member of such trade union liable to criminal prosecution for conspiracy or otherwise, or so as to render void or voidable any agreement or trust.

33. The Registrar General of Canada shall lay before Parliament annual reports with respect to the matters transacted by him as Registrar under this Act and in pursuance thereof.

## SCHEDULES.

## FIRST SCHEDULE.

## Maximum Fees.

|   |         |
|---|---------|
| For registering a trade union. . . . .        | \$ 4 00 |
| For registering alterations in rules. . . . . | 2 00    |
| For inspection of documents. . . . .          | 0 50    |

## SECOND SCHEDULE.

Matters to be Provided for by the Rules of Trade Unions Registered under this Act.

1. The name of the trade union and the place of meeting for the business of the trade union;

2. Every object for which the trade union is to be established, the purposes for which the funds thereof shall be applicable, and the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures which may be imposed on any member of such trade union;

3. The manner of making, altering, amending and rescinding rules;

4. A provision for the appointment and removal of a general committee of management, and of a trustee or trustees, treasurer and other officers;

5. A provision for the investment of the funds, and for an annual or periodical audit of accounts;

6. The inspection of the books and names of members of the trade union by every person having an interest in the funds of the trade union.

## Health of Employees on Public Works.

Chapter 135.—1. This Act may be cited as the Public Works Health Act.

2. In this Act, unless the context otherwise requires, 'public work' or 'work' means and includes in addition to every public work of Canada, every railway, canal, bridge, telegraph and other work within the legislative authority of the Parliament of Canada.

3. For the preservation of health and the mitigation of disease amongst persons employed in the construction of public works the Governor General in Council may from time to time make regulations.

(a) as to the extent and character of the accommodation to be afforded by the houses, tents or other quarters occupied by the employees on the works;

(b) for the inspection of such houses, tents or other quarters, and the cleansing, purifying and disinfecting thereof where necessary;

(c) as to the number of qualified medical men to be employed on the works;

(d) for the provision of hospitals on the works and as to the number, location and character of such hospitals;

(e) for the isolation and care of persons suffering from contagious or infectious diseases;

(f) as to such other matters or things as he may deem best adapted to attain the objects of this Act.

(2) Such regulations may be either general or special and may apply generally to all public works or specially to one or more public works or class of public works named therein.<sup>1</sup>

<sup>1</sup> Regulations respecting the various subjects mentioned in Section 3, have been in force since 1906, and apply to every "public work" or "work" within the meaning of the Act, whether carried on by a company or contractor or under the direct charge of the Government.

4. The Governor in Council may until Parliament otherwise provides prescribe punishments, penalties and forfeitures for breach or non-observance of such regulations, and may also prescribe the procedure for enforcing the same: Provided that no punishment by way of imprisonment to be prescribed by the Governor in Council shall exceed three months, and that such punishments, penalties or forfeitures shall be prescribed in addition to any others to which under the criminal law the offender may be liable.

5. Any Orders in Council or regulations made under the authority of this Act shall be laid on the tables of both Houses of Parliament within fifteen days after the opening of the next following session of Parliament.

#### Wages as Preferred Claims—In Liquidations.

Chapter 144.—70. Clerks or other persons in, or having been in the employment of the company, in or about its business or trade, shall be collocated in the dividend sheet by special privilege over other creditors, for any arrears of salary or wages due and unpaid to them at the time of the making of the winding-up order, not exceeding the arrears which have accrued to them during the three months next previous to the date of such order.

#### Peace Preservation on Public Works.

Chapter 146 with amendments.—142. In this Part, unless the context otherwise requires,—

(a) 'this Part' means such section or sections thereof, as are in force, by virtue of any proclamation, in the place with reference to which the Part is to be construed and applied;

(b) 'commissioner' means a commissioner under this Part;

(c) 'public work' includes any railway, canal, road, bridge, or other work of any kind, and any mining operation, constructed or carried on by the Government of Canada, or of any province of Canada, or by any municipal corporation, or by any incorporated company, or by private enterprise.

#### Proclamation.

143. The Governor in Council may, as often as occasion requires, declare, by proclamation, that upon and after a day therein named, this Part, or any section or sections thereof, shall be in force in any place in Canada in such proclamation designated, within the limits or in the vicinity whereof any public work is in course of construction, or in any place in the vicinity of any public work, within which he deems it necessary that this Part, or any section or sections thereof, should be in force; and this Part or any such section or sections thereof, shall, upon and after the day named in such proclamation, take effect within the place or places designated therein.

(2) The Governor in Council may, in like manner, from time to time, declare this Part, or any section or sections thereof, to be no longer in force in any such place, and may again, from time to time, declare this Part, or any section or sections thereof, to be in force therein.

(3) No such proclamation shall have effect within the limits of any city.

(4) All courts, magistrates and justices shall take judicial notice of every such proclamation.

#### Weapons.

144. On or before the day named in such proclamation, every person employed on or about the public work to which the same relates, shall bring and deliver up, to some commissioner or officer appointed for the purposes of this Part every weapon in his possession, and shall obtain from such commissioner or officer a receipt for the same.

145. Every weapon found in the possession of any person employed, as aforesaid, after the day named in any proclamation and within the limits designated in such proclamation, may be seized by any justice, commissioner, constable or other peace officer, and shall be forfeited to the use of His Majesty.

146. Every one employed upon or about any public work, within any place in which this Part is in force, who, upon or after the day named in such proclamation, keeps or has in his possession or under his care or control within any such place, any weapon, is liable on summary conviction to a penalty not exceeding four dollars, and not less than two dollars for every such weapon found in his possession or under his care or control.

147. Every one who, for the purpose of defeating the enforcement of this Part, receives or cancels, or aids in receiving or concealing, or procures to be received or concealed, within any place in which this Part is in force, any weapon belonging to or in the custody of any person employed on or about any public work, is liable, on sum-

mary conviction, to a penalty not exceeding one hundred dollars and not less than forty dollars; and a moiety of such penalty shall belong to the informer and the other moiety to His Majesty, for the public uses of Canada.

148. Every person employed on any public work found carrying any weapon, within any place in which this Part, is at the time in force, for purposes dangerous to the public peace, is guilty of an indictable offence.

149. Whenever this Part ceases to be in force within the place where any weapon has been delivered and detained in pursuance thereof, or whenever the owner or person lawfully entitled to any weapon satisfies the commissioner that he is about to remove immediately from the limits within which this Part is at the time in force, the commissioner may deliver up to the owner or person authorized to receive the same, any such weapon, on production of the receipt given for it.

#### Intoxicating Liquor.

150. Upon and after the day named in such proclamation, and during such period as the proclamation remains in force, no person shall, at any place within the limits specified in the proclamation, sell, barter, or directly or indirectly, for any matter, thing, profit, or reward, exchange, supply or dispose of, or shall give to any other person, any intoxicating liquor, or shall expose, keep or have in his possession any intoxicating liquor intended to be dealt with in any such way.

(2) The provisions of this section shall not extend to any person selling intoxicating liquor by wholesale, and not retailing it, if the said person is a licensed distiller or brewer, nor shall they apply where liquor is supplied for bona fide medicinal purposes upon the prescription of a duly qualified medical practitioner. 1907, c. 9, s. 2.

151. Every one who, by himself, his clerk, servant, agent or other person, violates any of the provisions of section 150 is guilty of an offence against this Part and liable on summary conviction to a penalty of two hundred dollars and costs and, in default of payment, to imprisonment for a term not exceeding three months; and, upon any subsequent conviction, to a penalty of three hundred dollars and costs, or to imprisonment for a term not exceeding six months, or to both, and, in default of payment of such penalty, to imprisonment or to further imprisonment for a term not exceeding three months; and imprisonment in each case shall be either with or without hard labour. 1913, c. 13, s. 6.

152. Every clerk, servant, agent or other person who, being in the employment of, or on the premises of another person, violates or assists in violating any of the said provisions for the person in whose employment or on whose premises he is, shall be equally guilty with such person, and shall be liable to the punishment mentioned in the last preceding section.

153. Any payment or compensation, whether in money or securities for money, labour or property of any kind, for intoxicating liquor sold, bartered, exchanged, supplied or disposed of, contrary to the provisions aforesaid, shall be held to have been criminally received without consideration, and against law, equity and good conscience, and the amount or value thereof may be recovered from the receiver by the person making, paying or furnishing such payment or compensation.

154. All sales, transfers, conveyances, liens and securities of every kind, which either in whole or in part have been made or given for on account of intoxicating liquor sold, bartered, exchanged, supplied or disposed of contrary to such provisions, shall be void against all persons, and no right shall be acquired thereby.

(2) No action of any kind shall be maintained, either in whole or in part, for or on account of intoxicating liquor sold, bartered, exchanged, supplied or disposed of, contrary to the said provisions.

#### Protection of Female Employees in Factories, etc.

Chapter 146.—213. Every one is guilty of an indictable offence and liable to two years' imprisonment,—

(b) who seduces or has illicit connection with any woman or girl previously chaste and under the age of twenty-one years who is in his employment in a factory, mill, workshop, shop or store, or who, being in a common, but not necessarily similar employment with him in such factory, mill, workshop, shop or store, is, in respect of her employment or work in such factory, mill, workshop, shop or store, under or in any way subject to his control or direction, or receives her wages or salary directly or indirectly from him.

#### Apprenticeship.

Chapter 146.—243. Every one who, as master or mistress, has contracted to provide necessary food, clothing or lodging for any servant or apprentice under the age of sixteen years is under a legal duty to provide the same, and is criminally responsible for

omitting, without lawful excuse, to perform such duty, if the death of such servant or apprentice is caused, or if his life is endangered, or his health has been or is likely to be permanently injured, by such omission.

244. Every one is guilty of an indictable offence and liable to three years' imprisonment who, being bound to perform any duty specified in the three last preceding sections, without lawful excuse neglects or refuses to do so, unless the offence amounts to culpable homicide.

249. Every one is guilty of an indictable offence and liable to three years' imprisonment who, being legally liable as master or mistress to provide for any apprentice or servant, unlawfully does, or causes to be done, any bodily harm to any such apprentice or servant so that the life of such apprentice or servant has been, or is likely to be, permanently injured.

### Theft by Employees.

Chapter 146.—359. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who,—

(a) being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, steals anything belonging to or in the possession of his master or employer; or,

(b) being a cashier, assistant cashier, manager, officer, clerk or servant of any bank, or savings bank, steals any bond, obligation, bill obligatory of credit, or other bill or note, or any security for money, or any money or effects of such bank, or lodged or deposited with any such bank; or,

(c) being employed in the service of His Majesty, or of the Government of Canada, or the government of any province of Canada, or of any municipality, steals anything in his possession by virtue of his employment.

378. Every one is guilty of an indictable offence and liable to two years' imprisonment who steals the ore of any metal, or any quartz, lapis calaminaris, manganese, or mundic, or any piece of gold, silver or other metal, or any wad, black cawk, or black lead, or any coal, or cannel coal, or any marble, stone or other mineral, from any mine, bed or vein thereof respectively.

(2) It is not an offence to take, for the purposes of exploration or scientific investigation, any specimen or specimens of any ore or mineral from any piece of ground uninclosed and not occupied or worked as a mine, quarry or digging.

388. Every one is guilty of an indictable offence and liable to five years' imprisonment who steals, to the value of two dollars, any woollen, linen, hempen or cotton yarn, or any goods or articles of silk, woollen, linen, cotton, alpaca or mohair, or of any one or more of such materials mixed with each other or mixed with any other material, while laid, placed or exposed, during any stage, process or progress of manufacture, in any building, field or other place.

### Offences Resembling Theft.

389. Every one is guilty of an indictable offence and liable to two years' imprisonment, when the offence is not within the last preceding section, who, having been entrusted with, for the purpose of manufacture or for a special purpose connected with manufacture, or employed to make, any felt or hat, or to prepare or work up any woollen, linen, fustian, cotton, iron, leather, fur, hemp, flax or silk, or any such materials mixed with one another, or having been so entrusted, as aforesaid, with any other article, materials, fabric or thing, or with any tools or apparatus for manufacturing the same, fraudulently disposes of the same or any part thereof.

### Labour Organizations—Exemption from Combine Laws.—Intimidation—Picketing.

Chapter 146.—496. A conspiracy in restraint of trade is an agreement between two or more persons to do or procure to be done any unlawful act in restraint of trade.

497. The purposes of a trade union are not, by reason merely that they are in restraint of trade, unlawful within the meaning of the last preceding section.

498. Every one is guilty of an indictable offence and liable to a penalty not exceeding four thousand dollars and not less than two hundred dollars, or two years' imprisonment, or, if a corporation, is liable to a penalty not exceeding ten thousand dollars, and not less than one thousand dollars, who conspires, combines, agrees or arranges with any other person, or with any railway, steamship, steamboat or transportation company,—

(a) to unduly limit the facilities for transporting, producing, manufacturing, supplying, storing or dealing in any article or commodity which may be a subject of trade or commerce; or,

(b) to restrain or injure trade or commerce in relation to any such article or commodity; or,

(c) to unduly prevent, limit, or lessen the manufacture or production of such article or commodity, or to unreasonably enhance the price thereof; or,

(d) to unduly prevent or lessen competition in the production, manufacture, purchase, barter, sale, transportation or supply of any such article or commodity, or in the price of insurance upon person or property.

(2) Nothing in this section shall be construed to apply to combinations of workmen or employees for their own reasonable protection as such workmen or employees.

499. Every one is guilty of an offence punishable on indictment on summary conviction before two justices and liable on conviction to a penalty not exceeding one hundred dollars or to three months' imprisonment with or without hard labour, who,—

(a) wilfully breaks any contract made by him knowing, or having reasonable cause to believe, that the probable consequences of his so doing, either alone or in combination with others, will be to endanger human life, or to cause serious bodily injury, or to expose valuable property, whether real or personal, to destruction or serious injury; or,

(b) being bound, agreeing or assuming, under any contract made by him with any municipal corporation or authority, or with any company to supply any city or any other place, or any part thereof, with electric light, or power, gas or water, wilfully breaks such contract knowing or having reasonable cause to believe, that the probable consequences of his so doing, either alone or in combination with others, will be to deprive the inhabitants of that city or place, or part thereof, wholly or to a great extent, of their supply of power, light, gas or water; or,

(c) being bound, agreeing or assuming, under any contract made by him with a railway company, or with His Majesty, or any one on behalf of His Majesty, in connection with a government railway on which His Majesty's mails, or passengers or freight are carried, to carry His Majesty's mails, or to carry passengers or freight, wilfully breaks such contract knowing, or having reason to believe that the probable consequences of his so doing, either alone or in combination with others, will be to delay or prevent the running of any locomotive engine, or tender, or freight or passenger train or car, on the railway.

(4) It is not material whether any offence defined in this section is committed from malice conceived against the person, corporation, authority or company with which the contract is made otherwise.

501. Every one is guilty of an offence punishable, at the option of the accused, on indictment or on summary conviction before two justices and liable on conviction to a fine not exceeding one hundred dollars, or to three months' imprisonment with or without hard labour, who, wrongfully and without lawful authority, with a view to compel any other person to abstain from doing anything which he has a lawful right to do, or to do anything from which he has a lawful right to abstain,—

(a) uses violence to such other person, or his wife or children, or injures his property; or,

(b) intimidates such other person, or his wife or children, by threats or using violence to him, her or any of them, or of injuring his property; or,

(c) persistently follows such other person about from place to place; or,

(d) hides any tools, clothes or other property owned or used by such other person, or deprives him of, or hinders him in, the use thereof; or,

(e) with one or more other persons, follows such other person, in a disorderly manner, in or through any street or road; or,

(f) besets or watches the house or other place where such other person resides or works, or carries on business or happens to be.

502. Every one is guilty of an indictable offence and liable to two years' imprisonment who, in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or of any unlawful combination or conspiracy respecting any trade, business or manufacture, or respecting any person concerned or employed therein, unlawfully assaults any person, or, in pursuance of any such combination or conspiracy, uses any violence or threat of violence to any person, with intent to hinder him from working or being employed at such trade, business or manufacture.

503. Every one is guilty of an offence punishable on indictment, or on summary conviction before two justices, and liable on conviction to a fine not exceeding one hundred dollars, or to three months' imprisonment with or without hard labour, who,—

(e) by force or threats of violence, or by any form of intimidation whatsoever, hinders or prevents, or attempts to hinder or prevent any seaman, stevedore, ship carpenter, ship labourer or other person employed to work at or on board any ship or vessel, or to do any work connected with the loading or unloading thereof, from working at or exercising any lawful trade, business, calling or occupation in or for which he is so employed or with intent so to hinder or prevent, besets or watches such ship, vessel or employee; or,

(d) beats or uses any violence to, or makes any threat of violence against, any such person with intent to hinder or prevent him from working at or exercising such trade, business, calling or occupation or on account of his having worked at or exercised the same.

590. No prosecution shall be maintainable against any person for conspiracy in refusing to work with or for any employer or workman, or for doing any act or causing any act to be done for the purpose of a trade combination, unless such act is an offence punishable by statute.

### Thefts by Employees—Evidence.

Chapter 146.—988. In any prosecution, proceeding or trial for stealing ores or minerals the possession, contrary to the provisions of any law in that behalf, of any melted gold or silver, or any gold-bearing quartz, or any unsmelted or otherwise unmanufactured gold or silver, by any operator, workman or labourer actively engaged in or on any mine, shall be *prima facie* evidence that the same has been stolen by him.

### Prison Labour—Penitentiaries.

Chapter 147.—62. Imprisonment in a penitentiary shall be with hard labour, whether so directed in the sentence by which such imprisonment is adjudged or not.

(2) Every convict, except during sickness or other incapacity, shall be kept constantly at hard labour, of a kind determined by the warden, during at least ten hours, if possible, exclusive of hours for meals, or every day, except Sunday, Good Friday, Christmas Day, and such other days as the Governor General sets apart for days of fasting or thanksgiving, and such days as are designated in the rules made by the Inspectors in that behalf; but no convict shall be compelled to labour on any of the obligatory holidays of the religious denomination to which he adheres.

(3) The convicts may be employed in labour under the control of the Crown; but no labour shall be let out to any company or person.

### Prison Labour—Ontario.

Chapter 148.—12. Every one who is sentenced to imprisonment in any jail, or other public or reformatory prison, shall be subject to the provisions of the statutes relating to jail or prison, and to all rules and regulations lawfully made with respect thereto.

(2) Imprisonment in the Central Prison for the province of Ontario, in the Andrew Mercer Ontario Reformatory for females, and in any reformatory prison for females in the province of Quebec, shall be with hard labour, whether so directed in the sentence or not.

13. The Lieutenant Governor of any province may, from time to time, make regulations for the purpose of preventing escapes and preserving discipline in the case of prisoners in any common jail or prison employed beyond the limits of such common jail or prison.

14. After such regulations are made, the Lieutenant Governor may, from time to time direct or authorize or sanction the employment upon any specific work or duty, beyond the limits of any common jail or prison, of any prisoner who is sentenced to be imprisoned with hard labour in such jail, for any offence against any law of Canada.

47. The Lieutenant-Governor [of Ontario] may, from time to time, authorize, direct or sanction the employment upon any specific work or duty without or beyond the walls or limits of the Central Prison, of any of the prisoners confined or sentenced to be imprisoned therein.

### Prison Labour—Quebec.

Chapter 148.—87. Every sheriff or jailer in the province of Quebec, being thereunto authorized by the Lieutenant Governor, or in such manner as any Act of the Legislature of the province provides, and under such regulations as the Legislature makes or authorizes to be made in that behalf, may employ any male convict sentenced to hard labour in such prison, at hard labour outside the walls or precincts of the prison, and may exercise the same powers of restraint and discipline, and for preventing escape, while the convict is so outside of the walls or precincts, as if he was inside the same, and whether his labour is so employed directly by the Government of the province or by any contractor to whom such labour is let or hired out by the Government, or by any competent authority.



### Sunday Labour.

Chapter 153.—1. This Act may be cited as the Lord's Day Act.

#### Interpretation.

2. In this Act, unless the context otherwise requires,—

(a) 'Lord's Day' means the period of time which begins at twelve o'clock on Saturday afternoon and ends at twelve o'clock on the following afternoon;

(b) 'person' has the meaning which it has in the Criminal Code;

(c) 'vessel' includes any kind of vessel or boat used for conveying passengers or freight by water;

(d) 'railway' includes steam railway, electric railway, street railway and tramway;

(e) 'performance' includes any game, match, sport, contest, exhibition or entertainment;

(f) 'employer' includes every person to whose orders or directions any other person is by his employment bound to conform;

(g) 'provincial Act' means the charter of any municipality, or any public Act of any province, whether passed before or since confederation.

3. Nothing herein shall prevent the operation on the Lord's Day for passenger traffic by any railway company incorporated by or subject to the legislative authority of the Parliament of Canada of its railway where such operation is not otherwise prohibited.

(2) Nothing herein shall prevent the operation on the Lord's Day for passenger traffic of any railway subject to the legislative authority of any province, unless such railway is prohibited by provincial authority from so operating.

#### Commencement.

4. This Act shall come into force on the first day of March, one thousand nine hundred and seven.

6. Except in cases of emergency, it shall not be lawful for any person to require any employee engaged in any work of receiving, transmitting or delivering telegraph or telephone messages, or in the work of any industrial process, or in connection with transportation, to do on the Lord's Day the usual work of his ordinary calling, unless such employee is allowed during the next six days of such week, twenty-four consecutive hours without labour.

(2) This section shall not apply to any employee engaged in the work of any industrial process in which the regular day's labour of such employee is not of more than eight hours' duration.

#### Works of Necessity and Mercy Excepted.

12. Notwithstanding anything herein contained, any person may on the Lord's Day do any work of necessity or mercy, and for greater certainty, but not so as to restrict the ordinary meaning of the expression 'work of necessity and mercy,' it is hereby declared that it shall be deemed to include the following classes of work:—

(a) Any necessary or customary work in connection with divine worship;

(b) Work for the relief of sickness and suffering, including the sale of drugs, medicines and surgical appliances by retail;

(c) Receiving, transmitting, or delivering telegraph or telephone messages;

(d) Starting or maintaining fires, making repairs to furnaces and repairs in cases of emergency, and doing any other work, when such fires, repairs or work are essential to any industry or industrial process of such a continuous nature that it cannot be stopped without serious injury to such industry, or its product, or to the plant or property used in such process;

(e) Starting or maintaining fires, and ventilating, pumping out and inspecting mines, when any such work is essential to the protection of property, life or health;

(f) Any work without the doing of which on the Lord's Day, electric current, light, heat, cold air, water or gas cannot be continuously supplied for lawful purposes;

(g) The conveying of travellers and work incidental thereto;

(h) The continuance to their destination of trains and vessels in transit when the Lord's Day begins, and work incidental thereto;

(i) Loading and unloading merchandise, at intermediate points, on or from passenger boats or passenger trains;

(j) Keeping railway tracks clear of snow or ice, making repairs in cases of emergency, or doing any other work of a like incidental character necessary to keep the lines and tracks open on the Lord's Day;

(k) Work before six o'clock in the forenoon and after eight o'clock in the afternoon of yard crews in handling cars in railway yards;

(l) Loading, unloading and operating any ocean-going vessel which otherwise would be unduly delayed after her scheduled time of sailing, or any vessel which otherwise

would be in imminent danger of being stopped by the closing of navigation; or loading or unloading before seven o'clock in the morning or after eight o'clock in the afternoon any grain, coal or ore carrying vessel after the fifteenth of September;

(m) The caring for milk, cheese, and live animals, and the unloading of and caring for perishable products and live animals, arriving at any point during the Lord's Day;

(n) The operation of any toll or drawbridge, or any ferry or boat authorized by competent authority to carry passengers on the Lord's Day;

(o) The hiring of horses and carriages or small boats for the personal use of the hirer or his family for any purpose not prohibited by this Act;

(p) Any unavoidable work after six o'clock in the afternoon of the Lord's Day, in the preparation of the regular Monday morning edition of a daily newspaper;

(q) The conveying of His Majesty's mails and work incidental thereto;

(r) The delivery of milk for domestic use, and the work of domestic servants and watchmen;

(s) The operation by any Canadian electric street railway company, whose line is interprovincial or international, of its cars, for passenger traffic, on the Lord's Day, on any line or branch which is, on the day of the coming into force of this Act regularly so operated;

(t) Work done by any person in the public service of His Majesty while acting therein under any regulation or direction of any department of the Government;

(u) Any unavoidable work by fishermen after six o'clock in the afternoon of the Lord's Day, in the taking of fish;

(v) All operations connected with the making of maple sugar and maple syrup in the maple grove;

(w) Any unavoidable work on the Lord's Day to save property in cases of emergency, or where such property is in imminent danger of destruction or serious injury.

(x) Any work which the Board of Railway Commissioners for Canada, having regard to the object of this Act, and with the object of preventing undue delay, deems necessary to permit in connection with the freight traffic of any railway.

#### Offences and Penalties.

13. Any person who violates any of the provisions of this Act shall for each offence be liable, on summary conviction, to a fine, not less than one dollar and not exceeding forty dollars, together with the cost of prosecution.

14. Every employer who authorizes or directs anything to be done in violation of any provision of this Act, shall for each offence be liable, on summary conviction, to a fine not exceeding one hundred dollars and not less than twenty dollars, in addition to any other penalty prescribed by law for the same offence.

15. Every corporation which authorizes, directs or permits its employees to carry on any part of the business of such corporation in violation of any of the provisions of this Act, shall be liable, on summary conviction before two justices of the peace, for the first offence, to a penalty not exceeding two hundred and fifty dollars and not less than fifty dollars, and, for each subsequent offence, to a penalty not exceeding five hundred dollars and not less than one hundred dollars, in addition to any other penalty prescribed by law for the same offence.

#### Procedure.

16. Nothing herein shall be construed to repeal or in any way affect any provisions of any Act or law relating in any way to the observance of the Lord's Day in force in any province of Canada when this Act comes into force; and where any person violates any of the provisions of this Act, and such offence is also a violation of any other Act or law, the offender may be proceeded against either under the provisions of this Act or under the provisions of any other Act or law applicable to the offence charged.

17. No action or prosecution for a violation of this Act shall be commenced without the leave of the Attorney General for the province in which the offence is alleged to have been committed, nor after the expiration of sixty days from the time of the commission of the alleged offence.

#### STATUTES OF 1907.

##### Industrial Disputes—Investigation and Conciliation.

Chapter 20 with amendment.—1. This Act may be cited as The Industrial Disputes Investigation Act, 1907.

##### Preliminary Interpretation.

2. In this Act, unless the context otherwise requires—

(a) "Minister" means the Minister of Labour;

(b) "department" means the Department of Labour;

(c) "employer" means any person, company or corporation employing ten or more persons and owning or operating any mining property, agency of transportation or communication, or public service utility, including, except as hereinafter provided, railways, whether operated by steam, electricity or other motive power, steamships, telegraph and telephone lines, gas, electric light, water and power works;

(d) "employee" means any person employed by an employer to do any skilled or unskilled manual or clerical work for hire or reward in any industry to which this Act applies;

(e) "dispute" or "industrial dispute" means any dispute or difference between an employer and one or more of his employees, as to matters or things affecting or relating to work done or to be done by him or them, or as to the privileges, rights and duties of employers or employees (not involving any such violation thereof as constitutes an indictable offence); and, without limiting the general nature of the above definition, includes all matters relating to—

(1) the wages allowance or other remuneration of employees, or the price paid or to be paid in respect of employment;

(2) the hours of employment, sex, age, qualification or status of employees, and the mode, terms and conditions of employment;

(3) the employment of children or any person or persons or class of persons, or the dismissal of or refusal to employ any particular person or persons or class of persons;

(4) claims on the part of an employer or any employee as to whether and, if so, under what circumstances, preference of employment should or should not be given to one class over another of persons being or not being members of labour or other organizations, British subjects or aliens;

(5) materials supplied and alleged to be bad, unfit or unsuitable, or damage alleged to have been done to work;

(6) any established custom or usage, either generally or in the particular district affected;

(7) the interpretation of an agreement or a clause thereof;

(f) "lockout" (without limiting the nature of its meaning) means a closing of a place of employment, or a suspension of work, or a refusal by an employer to continue to employ any number of his employees in consequence of a dispute, done with a view to compelling his employees, or to aid another employer in compelling his employees, to accept terms of employment;

(g) "strike" or "to go on strike" (without limiting the nature of its meaning) means the cessation of work by a body of employees acting in combination, or a concerted refusal or a refusal under a common understanding of any number of employees to continue to work for an employer, in consequence of a dispute, done as a means of compelling their employer, or to aid other employees in compelling their employer, to accept terms of employment;

(h) "board" means a Board of Conciliation and Investigation established under the provisions of this Act;

(i) "application" means an application for the appointment of a Board under the provisions of this Act;

(j) "Registrar" means the Registrar of Boards of Conciliation and Investigation under this Act;

(k) "prescribed" means prescribed by this Act, or by any rules or regulations made thereunder;

(l) "trade union" or "union" means any organization of employees formed for the purpose of regulating relations between employers and employees.

#### Administration.

3. The Minister of Labour shall have the general administration of this Act.

4. The Governor in Council shall appoint a Registrar of Boards of Conciliation and Investigation, who shall have the powers and perform the duties prescribed.

(2) The office of Registrar may be held either separately or in conjunction with any other office in the public service, and in the latter case the Registrar may, if the Governor in Council thinks fit, be appointed, not by name, but by reference to such other office, whereupon the person who for the time being holds such office, or performs its duties, shall by virtue thereof be the Registrar.

#### Boards of Conciliation and Investigation.—Constitution of Boards.

5. Wherever any dispute exists between an employer and any of his employees, and the parties thereto are unable to adjust it, either of the parties to the dispute may make application to the Minister for the appointment of a Board of Conciliation and Investigation, to which Board the dispute may be referred under the provisions of this Act: Provided, however, that, in the case of a dispute between a railway company and its

employees, such dispute may be referred, for the purpose of conciliation and investigation, under the provisions concerning railway disputes in the Conciliation and Labour Act.

6. Whenever, under this Act, an application is made in due form for the appointment of a Board of Conciliation and Investigation, and such application does not relate to a dispute which is the subject of a reference under the provisions concerning railway disputes in the Conciliation and Labour Act, the Minister, whose decision for such purpose shall be final, shall, within fifteen days from the date at which the application is received, establish such Board under his hand and seal of office, if satisfied that the provisions of this Act apply.

7. Every Board shall consist of three members who shall be appointed by the Minister.

(2) Of the three members of the Board one shall be appointed on the recommendation of the employer and one on the recommendation of the employees (the parties to the dispute), and the third on the recommendation of the members so chosen.

8. For the purposes of appointment of the members of the Board, the following provisions shall apply:—

(1) Each party to the dispute may, at the time of making application or within five days after being requested so to do by the Minister, recommend the name of one person who is willing and ready to act as a member of the Board, and the Minister shall appoint such person a member of the Board.

(2) If either of the parties fails or neglects to duly make any recommendation within the said period, or such extension thereof as the Minister, on cause shown, grants, the Minister shall, as soon thereafter as possible, appoint a fit person to be a member of the Board; and such member shall be deemed to be appointed on the recommendation of the said party.

(3) The members chosen on the recommendation of the parties may, within five days after their appointment, recommend the name of one person who is willing and ready to act as a third member of the Board, and the Minister shall appoint such person a member of the Board.

(4) If the members chosen on the recommendation of the parties fail or neglect to duly make any recommendation within the said period, or such extension thereof as the Minister, on cause shown, grants, the Minister shall, as soon thereafter as possible, appoint a fit person to be a third member of the Board, and such member shall be deemed to be appointed on the recommendation of the two other members of the Board.

(5) The third member shall be the Chairman of the Board.

9. As soon as possible after the full Board has been appointed by the Minister, the Registrar shall notify the parties of the names of the members of the Board and the chairman thereof, and such notification shall be final and conclusive for all purposes.

10. Every member of a Board shall hold office from the time of his appointment until the report of the Board is signed and transmitted to the Minister.

11. No person shall act as a member of a Board who has any direct pecuniary interest in the issue of a dispute referred to such Board.

12. Every vacancy in the membership of a Board shall be supplied in the same manner as in the case of the original appointment of every person appointed.

13. Before entering upon the exercise of the functions of their office the members of a Board, including the chairman, shall make oath or affirmation before a justice of the peace or other person authorized to administer an oath or affirmation that they will faithfully and impartially perform the duties of their office, and also that, except in the discharge of their duties, they will not disclose to any person any of the evidence or other matter brought before the Board. 1910, c. 29, s. 1.

14. The department may provide the Board with a secretary, stenographer, or such other clerical assistance as to the Minister appears necessary for the efficient carrying out of the provisions of this Act.

#### Procedure for Reference of Disputes to Boards.

15. For the purpose of determining the manner in which, and the persons by whom, an application for the appointment of a Board is to be made, the following provisions shall apply:—

(1) The application shall be made in writing in the prescribed form, and shall be in substance a request to the Minister to appoint a Board to which the existing dispute may be referred under the provisions of this Act.

(2) The application shall be accompanied by—

(a) A statement setting forth—

(1) the parties to the dispute;

(2) the nature and cause of the dispute, including any claims or demands made by either party upon the other, to which exception is taken;

(3) an approximate estimate of the number of persons affected or likely to be affected by the dispute;

(4) the efforts by the parties themselves to adjust the dispute; and—

(b) A statutory declaration setting forth that, failing an adjustment of the dispute or a reference thereof by the Minister to a Board, to the best of the knowledge and belief of the declarant a lockout or strike will be declared, and (except where the application is made by an employer in consequence of an intended change in wages or hours proposed by the said employer) that the necessary authority to declare such lockout or strike has been obtained; or, where a dispute directly affects employees in more than one province and such employees are members of a trade union having a general committee authorized to carry on negotiations in disputes between employers and employees and so recognized by the employer, a statutory declaration by the chairman or president and by the secretary of such committee setting forth that, failing an adjustment of the dispute or a reference thereof by the Minister to a Board, to the best of the knowledge and belief of the declarants a strike will be declared, that the dispute has been the subject of negotiations between the committee and the employer, that all efforts to obtain a satisfactory settlement have failed, and that there is no reasonable hope of securing a settlement by further negotiations. 1910, c. 29, s. 2.

(3) The application may mention the name of a person who is willing and ready and desires to act as a member of the Board representing the party or parties making the application.

16. The application and the declaration accompanying it—

(1) if made by an employer, an incorporated company or corporation, shall be signed by some one of its duly authorized managers or other principal executive officers;

(2) if made by an employer other than an incorporated company or corporation, shall be signed by the employer himself in case he is an individual, or a majority of the partners or members in case of a partnership firm or association;

(3) if made by employees members of a trade union, shall be signed by two of its officers duly authorized by a majority vote of the members of the union, or by a vote taken by ballot of the members of the union present at a meeting called on not less than three days' notice for the purpose of discussing the question, or, where a dispute directly affects employees in more than one province and such employees are members of a trade union having a general committee authorized to carry on negotiations in disputes between employers and employees, and so recognized by the employer, may be signed by the chairman or president and by the secretary of the said committee; 1910, c. 29, s. 3.

(4) if made by employees some or all of whom are not members of a trade union, shall be signed by two of their number duly authorized by a majority vote taken by ballot of the employees present at a meeting called on not less than three days' notice for the purpose of discussing the question.

17. Every application for the appointment of a Board shall be transmitted by post by registered letter addressed to the Registrar of Boards of Conciliation and Investigation, Department of Labour, Ottawa, and the date of the receipt of such registered letter at the department shall be regarded as the date of the receipt of such application.

18. In every case where an application is made for the appointment of a Board the party making application shall, at the time of transmitting it to the Registrar, also transmit by registered letter to the other party to the dispute, or by personal delivery a copy of the application and of the accompanying statement and declaration.

19. Upon receipt by either party to a dispute of a copy of the application for the appointment of a Board such party shall, without delay, prepare a statement in reply to the application and transmit it by registered letter, or by personal delivery, to the Registrar and to the party making the application.

20. Copies of applications or statements in reply thereto, to be transmitted to the other party under any of the preceding sections where the other party is—

(1) An employer, an incorporated company or corporation, shall be sent to the manager or other principal executive officer of the company or corporation;

(2) an employer other than an incorporated company or corporation, shall be sent to the employer himself or to the employer in the name of the business or firm as commonly known;

(3) composed of employees, members of a trade union, shall be sent to the president and secretary of such union;

(4) composed of employees some or all of whom are not members of a trade union,—

(a) Where some of the employees are members of a trade union, shall be sent to the president and secretary of the union as representing the employees belonging to the union; also

(b) Where some of the employees are not members of a trade union and there are no persons authorized to represent such employees, shall be sent to ten of their number;

(c) Where, under paragraph (4) of section 16, two persons have been authorized to make an application, shall be sent to such two persons.

## Functions, Powers and Procedure of Boards.

21. Any dispute may be referred to a Board by application in that behalf made in due form by any party thereto; provided that no dispute shall be the subject of reference to a Board under this Act in any case in which the employees affected by the dispute are fewer than ten.

22. Upon the appointment of the Board the Registrar shall forward to the chairman a copy of the application for the appointment of such Board, and of its accompanying statement and declaration, and of the statement in reply, and the Board shall forthwith proceed to deal with the matters referred to in these documents.

23. In every case where a dispute is duly referred to a Board it shall be the duty of the Board to endeavour to bring about a settlement of the dispute, and to this end the Board shall, in such manner as it thinks fit, expeditiously and carefully inquire into the dispute and all matters affecting the merits thereof and the right settlement thereof. In the course of such inquiry the Board may make all such suggestions and do all such things as it deems right and proper for inducing the parties to come to a fair and amicable settlement of the dispute, and may adjourn the proceedings for any period the Board thinks reasonable to allow the parties to agree upon terms of settlement.

24. If a settlement of the dispute is arrived at by the parties during the course of its reference to the Board, a memorandum of the settlement shall be drawn up by the Board and signed by the parties, and shall, if the parties so agree, be binding as if made a recommendation by the Board under section 62 of this Act, and a copy thereof with a report upon the proceedings shall be forwarded to the Minister.

25. If a settlement of the dispute is not arrived at during the course of its reference to the Board, the Board shall make a full report thereon to the Minister, which report shall set forth the various proceedings and steps taken by the Board for the purpose of fully and carefully ascertaining all the facts and circumstances, and shall also set forth such facts and circumstances, and its findings therefrom, including the cause of the dispute and the Board's recommendation for the settlement of the dispute according to the merits and substantial justice of the case.

26. The Board's recommendation shall deal with each item of the dispute and shall state in plain terms, and avoiding as far as possible all technicalities, what in the Board's opinion ought or ought not to be done by the respective parties concerned. Wherever it appears to the Board expedient so to do, its recommendation shall also state the period during which the proposed settlement should continue in force, and the date from which it should commence.

27. The Board's report and recommendation shall be made to the Minister in writing, and shall be signed by such of the members as concur therein, and shall be transmitted by the chairman by registered letter to the Registrar as soon as practicable after the reference of the dispute to the Board; and in the same manner a minority report may be made by any dissenting member of the Board.

28. Upon receipt of the Board's report the Minister shall forthwith cause the report to be filed in the office of the Registrar and a copy thereof to be sent free of charge to the parties to the dispute, and to the representative of any newspaper published in Canada who applies therefor, and the Minister may distribute copies of the report, and of any minority report, in such manner as to him seems most desirable as a means of securing a compliance with the Board's recommendation. The Registrar shall, upon application, supply certified copies for a prescribed fee, to persons other than those mentioned in this section.

29. For the information of Parliament and the public, the report and recommendation of the Board, and any minority report, shall, without delay, be published in the "Labour Gazette," and be included in the annual report of the Department of Labour to the Governor General.

30. For the purpose of its inquiry the Board shall have all the powers of summoning before it, and enforcing the attendance of witnesses, of administering oaths, and of requiring witnesses to give evidence on oath or on solemn affirmation (if they are persons entitled to affirm in civil matters) and to produce such books, papers or other documents or things as the Board deems requisite to the full investigation of the matters into which it is inquiring, as is vested in any court of record in civil cases.

(2) Any member of the Board may administer an oath, and the Board may accept, admit and call for such evidence as in equity and good conscience it thinks fit, whether strictly legal evidence or not.

31. The summons shall be in the prescribed form, and may require any person to produce before the Board any books, papers or other documents or things in his possession or under his control in any way relating to the proceedings.

32. All books, papers and other documents or things produced before the Board, whether voluntarily or in pursuance to summons, may be inspected by the Board, and also by such parties as the Board allows; but the information obtained therefrom shall



not, except in so far as the Board deems it expedient, be made public, and such parts of the books, papers or other documents as in the opinion of the Board do not relate to the matter at issue may be sealed up.

33. Any party to the proceedings shall be competent and may be compelled to give evidence as a witness.

34. Every person who is summoned and duly attends as a witness shall be entitled to an allowance for expenses according to the scale for the time being in force with respect to witnesses in civil suits in the superior courts in the province where the inquiry is being conducted.

35. Where a reference has been made to the Board of a dispute between a railway company and its employees, any witness summoned by the Board in connection with the dispute shall be entitled to free transportation over any railway en route when proceeding to the place of meeting of the Board and thereafter returning to his home, and the Board shall furnish to such witness a proper certificate evidencing his right to such free transportation.

36. If any person who has been duly served with such summons and to whom at the same time payment or tender has been made of his reasonable travelling expenses according to the aforesaid scale, fails to duly attend or to duly produce any book, paper or other document or thing as required by his summons, he shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars, unless he shows that there was good and sufficient cause for such failure.

37. If, in any proceedings before the Board, any person wilfully insults any member of the Board or wilfully interrupts the proceedings, or without good cause refuses to give evidence, or is guilty in any other manner of any wilful contempt in the face of the Board, any officer of the Board or any constable may take the person offending into custody and remove him from the precincts of the Board, to be detained in custody until the rising of the Board, and the person so offending shall be liable to a penalty not exceeding one hundred dollars.

38. The Board, or any member thereof, and, on being authorized in writing by the Board, any other person, may, without any other warrant than this Act, at any time, enter any building, mine, mine workings, ship, vessel, factory, workshop, place or premises of any kind, wherein, or in respect of which, any industry is carried on or any work is being or has been done or commenced, or any matter or thing is taking place or has taken place, which has been made the subject of a reference to the Board, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any persons in or upon any such building, mine, mine workings, ship, vessel, factory, workshop, place or premises as aforesaid, in respect of or in relation to any matter or thing hereinbefore mentioned, and any person who hinders or obstructs the Board or any such person authorized as aforesaid, in the exercise of any power conferred by this section, shall be guilty of an offence and be liable to a penalty not exceeding one hundred dollars.

39. Any party to a reference may be represented before the Board by three or less than three persons designated for the purpose, or by counsel or solicitor where allowed as hereinafter provided.

40. Every party appearing by a representative shall be bound by the acts of such representative.

41. No counsel or solicitor shall be entitled to appear or be heard before the Board, except with the consent of the parties to the dispute, and notwithstanding such consent the Board may decline to allow counsel or solicitors to appear.

42. Persons other than British subjects shall not be allowed to act as members of a Board.

43. If, without good cause shown, any party to proceedings before the Board fails to attend or to be represented, the Board may proceed as if he had duly attended or had been represented.

44. The sittings of the Board shall be held at such time and place as are from time to time fixed by the chairman, after consultation with the other members of the Board, and the parties shall be notified by the chairman as to the time and place at which sittings are to be held: Provided that, so far as practicable, the Board shall sit in the locality within which the subject matter of the proceeding before it arose.

45. The proceedings of the Board shall be conducted in public; provided that at any such proceedings before it, the Board, on its own motion, or on the application of any of the parties, may direct that the proceedings shall be conducted in private and that all persons other than the parties, their representatives, the officers of the Board and the witnesses under examination shall withdraw.

46. The decision of a majority of the members present at a sitting of the Board shall be the decisions of the Board, and the findings and recommendations of the majority of its members shall be those of the Board.

47. The presence of the chairman and at least one other member of the Board shall be necessary to constitute a sitting of the Board.



48. In case of the absence of any one member from a meeting of the Board the other two members shall not proceed, unless it is shown that the third member has been notified of the meeting in ample time to admit of his attendance.

(2) If any member of a Board dies, or becomes incapacitated, or refuses or neglects to act, his successor shall be appointed in the manner provided with respect to the original member of the Board.

49. The Board may at any time dismiss any matter referred to it which it thinks frivolous or trivial.

50. The Board may, with the consent of the Minister, employ competent experts or assessors to examine the books or official reports of either party, and to advise it upon any technical or other matter material to the investigation, but shall not disclose such reports or the results of such inspection or examination under this section without the consent of both the parties to the dispute.

#### Remuneration and Expenses of Board.

51. The members of a Board shall be remunerated for their services as follows:—

(a) to members other than the chairman, an allowance of five dollars a day for a time not exceeding three days during which the members may be actually engaged in selecting a third member of the Board;

(b) to each member of the Board, including the chairman, an allowance at the rate of twenty dollars for each day's sitting of the Board and for each day necessarily engaged in travelling from or to his place of residence to attend or after attending a meeting of the Board. 1910, c. 29, s. 4.

52. No member of the Board shall accept in addition to his salary as a member of the Board any perquisite or gratuity of any kind, from any corporation, association, partnership or individual in any way interested in any matter or thing before or about to be brought before the Board in accordance with the provisions of this Act. The accepting of such perquisite or gratuity by any member of the Board shall be an offence and shall render such member liable to a fine not exceeding one thousand dollars.

53. Each member of the Board will be entitled to his actual necessary travelling expenses for each day that he is engaged in travelling from or to his place of residence for the purpose of attending or after having attended a meeting of the Board.

54. All expenses of the Board, including expenses for transportation incurred by the members thereof or by persons under its order in making investigations under this Act, salaries of employees and agents, and fees and mileage to witnesses shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the chairman of the Board, which vouchers shall be forwarded by the chairman to the Minister. The chairman shall also forward to the Minister a certified and detailed statement of the sittings of the Board, and of the members present at such sittings.

#### Duties of the Registrar.

55. It shall be the duty of the Registrar:—

(a) to receive and register, and, subject to the provisions of this Act, to deal with all applications by employers or employees for a reference of any dispute to a Board, and to at once bring to the Minister's attention every such application;

(b) to conduct such correspondence with the parties and members of Boards as may be necessary to constitute any Board as speedily as possible in accordance with the provisions of this Act;

(c) to receive and file all reports and recommendations of Boards, and conduct such correspondence and do such things as may assist in rendering effective the recommendations of the Boards, in accordance with the provisions of this Act;

(d) to keep a register in which shall be entered the particulars of all applications, references, reports and recommendations relating to the appointment of a Board, and its proceedings; and to safely keep all applications, statements, reports, recommendations and other documents relating to proceedings before the Board, and, when so required, transmit all or any of such to the Minister;

(e) to supply to any parties, on request, information as to this Act, or any regulations or proceedings thereunder, and also to furnish parties to a dispute and members of the Board with necessary blank forms, forms of summons or other papers or documents required in connection with the effective carrying out of the provisions of this Act;

(f) generally, to do all such things and take all such proceedings as may be required in the performance of his duties prescribed under this Act or any regulations thereunder.

### Strikes and Lockouts Prior to and Pending a Reference to a Board Illegal.

56. It shall be unlawful for any employer to declare or cause a lockout, or for any employee to go on strike, on account of any dispute prior to or during a reference of such dispute to a Board of Conciliation and Investigation under the provisions of this Act, or prior to or during a reference under the provisions concerning railway disputes in the Conciliation and Labour Act: Provided that nothing in this Act shall prohibit the suspension or discontinuance of any industry or of the working of any persons therein for any cause not constituting a lockout or strike: Provided also that, except where the parties have entered into an agreement under section 62 of this Act, nothing in this Act shall be held to restrain any employer from declaring a lockout, or any employee from going on strike in respect of any dispute which has been duly referred to a Board and which has been dealt with under section 24 or 25 of this Act, or in respect of any dispute which has been the subject of a reference under the provisions concerning railway disputes in the Conciliation and Labour Act.

57. Employers and employees shall give at least thirty days' notice of an intended change affecting conditions of employment with respect to wages or hours; and in the event of such intended change resulting in a dispute, until the dispute has been finally dealt with by a Board, neither of the parties affected shall alter the conditions of employment with respect to wages or hours, or on account of the dispute do or be concerned in doing, directly or indirectly, anything in the nature of a lockout or strike, or a suspension or discontinuance of employment or work, but the relationship of employer and employee shall continue uninterrupted by the dispute, or anything arising out of the dispute; but if, in the opinion of the Board, either party uses this or any other provision of this Act for the purpose of unjustly maintaining a given condition of affairs through delay, and the Board so reports to the Minister, such party shall be guilty of an offence, and liable to the same penalties as are imposed for a violation of the next preceding section. 1910, c. 29, s. 5.

58. Any employer declaring or causing a lockout contrary to the provisions of this Act shall be liable to a fine of not less than one hundred dollars, nor more than one thousand dollars for each day or part of a day that such lockout exists.

59. Any employee who goes on strike contrary to the provisions of this Act shall be liable to a fine of not less than ten dollars nor more than fifty dollars, for each day or part of a day that such employee is on strike.

60. Any person who incites, encourages or aids in any manner any employer to declare or continue a lockout, or any employee to go or continue on strike contrary to the provisions of this Act, shall be guilty of an offence and liable to a fine of not less than fifty dollars nor more than one thousand dollars.

61. The procedure for enforcing penalties imposed or authorized to be imposed by this Act shall be that prescribed by Part XV. of The Criminal Code relating to summary convictions.

### Special Provisions.

62. Either party to a dispute which may be referred under this Act to a Board may agree in writing, at any time before or after the Board has made its report and recommendation, to be bound by the recommendation of the Board in the same manner as parties are bound upon an award made pursuant to a reference to arbitration on the order of a court of record; every agreement so to be bound made by one party shall be forwarded to the Registrar who shall communicate it to the other party, and if the other party agrees in like manner to be bound by the recommendation of the Board, then the recommendation shall be made a rule of the said court on the application of either party and shall be enforceable in like manner.

63. In the event of a dispute arising in any industry or trade other than such as may be included under the provisions of this Act, and such dispute threatens to result in a lockout or strike, or has actually resulted in a lockout or strike, either of the parties may agree in writing to allow such dispute to be referred to a Board of Conciliation and Investigation, to be constituted under the provisions of this Act.

(2) Every agreement to allow such reference shall be forwarded to the Registrar, who shall communicate it to the other party, and if such other party agrees in like manner to allow the dispute to be referred to a Board, the dispute may be so referred as if the industry or trade and the parties were included within the provisions of this Act.

(3) From the time that the parties have been notified in writing by the Registrar that in consequence of their mutual agreement to refer the dispute to a Board under the provisions of this Act, the Minister has decided to refer such dispute, the lockout or strike, if in existence, shall forthwith cease, and the provisions of this Act shall bind the parties.

## Miscellaneous.

64. No court of the Dominion of Canada, or of any province or territory thereof, shall have power or jurisdiction to recognize or enforce, or to receive in evidence any report of a Board, or any testimony or proceedings before a Board, as against any person or for any purpose, except in the case of the prosecution of such person for perjury.

65. No proceeding under this Act shall be deemed invalid by reason of any defect of form or any technical irregularity.

66. The Minister shall determine the allowance or amounts to be paid to all persons other than the members of a Board, employed by the Government or any Board, including the Registrar, secretaries, clerks, experts, stenographers or other persons performing any services under the provisions of this Act.

67. In case of prosecutions under this Act, whether a conviction is or is not obtained it shall be the duty of the clerk of the court before which any such prosecution takes place to briefly report the particulars of such prosecution to the Registrar within thirty days after it has been determined, and such clerk shall be entitled to a prescribed fee in payment of his services.

68. The Governor in Council may make regulations as to the time within which anything hereby authorized shall be done, and also as to any other matter or thing which appears to him necessary or advisable to the effectual working of the several provisions of this Act. All such regulations shall go into force on the day of the publication thereof in the "Canada Gazette," and they shall be laid before Parliament within fifteen days after such publication, or, if Parliament is not then in session, within fifteen days after the opening of the next session thereof.

69. All charges and expenses incurred by the Government in connection with the administration of this Act shall be defrayed out of such appropriations as are made by Parliament for that purpose.

70. An annual report with respect to the matters transacted by him under this Act shall be made by the Minister to the Governor General, and shall be laid before Parliament within the first fifteen days of each session thereof.<sup>1</sup>

### Pensions for Government Railway Employees.

Chapter 22 with amendments.—1. This Act may be cited as The Intercolonial and Prince Edward Island Railways Employees' Provident Fund Act.

2. In this section and the following sections of the Act, unless the context otherwise requires,—

(a) "Association" means the Intercolonial Railway Employees' Relief and Insurance Association;

(b) "Board" means the Board created under this Act through which the fund is to be administered as provided in this Act;

(c) "employee" means and includes any officer and employee of His Majesty employed upon, and duly appointed to, the staff of the railway and giving his entire time to the service of the railway, to whom this Act applies, and includes any person employed by His Majesty upon the Government official cars;

(d) "fund" means the Intercolonial and Prince Edward Island Railways Employees' Provident Fund established under this Act;

(e) "General Manager" means the person acting in the capacity of General Manager of the railway, or any person duly authorized to act for him;

(f) "Minister" means the Minister of Railways and Canals;

(g) "Railway" means and includes any railway subject to the Government Railways Act;

(h) "service" means service as an employee, and, for the purposes of sections 12, 13 and 14 of this Act, includes service similar to that of an employee, rendered prior to the coming into force of this Act, upon any railway acquired by the Government.

3. A fund shall be established, to be known as "The Intercolonial and Prince Edward Island Railways Employees' Provident Fund," for the purpose of providing life allowances to be paid to such persons as are entitled thereto under the provisions of this Act.

(2) The fund shall be created by means of contributions to be made from time to time as hereinafter provided by the employees and His Majesty.

<sup>1</sup> By P.C. 680, passed on March 23, 1916, in virtue of the War Measures Act, 1914, the provisions of the Industrial Disputes Investigation Act were declared to apply specifically "in the case of any dispute between employers and any employees engaged in the construction, production, repairing, manufacture, transportation or delivery, of ships, vessels, works, buildings, munitions, ordnance, guns, explosives, and materials and supplies of every nature and description whatsoever, intended for the use of His Majesty's military or naval forces or militia, or for the forces of the nations allied with the United Kingdom in the present war,—if such dispute threatens to result in a strike or lockout."

4. His Majesty shall contribute annually to the fund, out of the gross earnings of the railway, an amount at least equal to the total monthly contributions by the employees, but not exceeding in any one year one hundred thousand dollars, in such sum or sums as the Governor in Council from time to time determines to be necessary for the maintenance of the fund.

5. Every employee shall contribute to the fund monthly one and one-half per cent of his regular monthly salary and wages, which percentage shall be deducted by the Minister each month out of the said salary and wages, and so long as he remains in the service he shall in like manner continue to contribute to the fund upon the said basis, or upon such other or new basis as is established as provided for in this Act; but, in order to provide for the payment of allowances to be provided under this Act to persons who become entitled thereto immediately or soon after the coming into force of this Act, the first monthly contribution by the employees shall be three per cent instead of one and one-half per cent.

6. The fund shall be vested in, and belong to, His Majesty, who shall allow interest thereon at the rate of three per cent per annum, which shall be added to, and form part of, the fund.

7. A Board shall be established, consisting of five persons, of whom one shall be the General Manager, who shall always, when present, be the chairman of and preside at all meetings of the Board, two shall be appointed from time to time by the Minister from among the chief officers of the railway, (one of whom shall always act as chairman in the absence of the General Manager), and the remaining two shall be elected annually by the employees contributing to the fund.

(2) The head office of the Board shall be at Moncton, in the province of New Brunswick, where all meetings of the Board shall be held.

8. The Board may, subject to the approval of the Minister, and to the provisions of this Act, make rules and regulations for the following purposes:—

(a) The government of the Board, and the time when, and the manner in which, meetings of the Board shall be held;

(b) The time, place and manner of holding elections for those members of the Board to be elected by the employees, and the manner in which vacancies among them shall be filled;

(c) The eligibility of employees or persons to contribute to, or participate in the benefits of, the fund;

(d) The determination of the amount of the contribution to be made or the allowance to be received in any case by any employee;

(e) The times when, the manner in which, and all conditions under which such allowance shall be payable and payments made;

(f) The distribution and expenditure of the fund for the efficient operation thereof; and

(g) Generally for the proper and efficient carrying out of the objects of this Act;<sup>1</sup>

(2) The General Manager may, with the approval of the Minister, make rules and regulations fixing and determining the time, place and manner of holding the first election for those members of the Board to be elected by the employees for the first year of the existence of the Board.

9. The Board shall from time to time, and as often as the Minister requires, make written reports of its action to the Minister.

10. A secretary of the Board shall be appointed by the Governor in Council.

(2) The secretary shall be paid out of the fund such salary as the Minister, on the recommendation of the Board, determines.

(3) The secretary shall be subject to the Board, and shall obey all orders and directions of the Board touching his duties and the conduct of his office.

11. The fund shall be administered by the Minister through the Board in accordance with this Act and with the rules and regulations of the Board.

12. The following classes of persons, shall, upon the recommendation of the Board and the approval of the Minister, but subject to this Act and to the rules and regulations of the Board, upon being retired by the Minister from service, be entitled for the remainder of their lives to monthly allowances as provided for in this Act:—

Class A. Those who have attained the age of seventy years after being fifteen years in the service;

Class B. Those who, after being fifteen years in the service, become physically or mentally incapacitated from following their usual occupation in the service;

Class C. Those who have attained the age of sixty years after being fifteen years in the service, and request to be retired from the service;

Class D. Those who are permanently disabled from following their usual occupation in the service as a result of injuries received while on duty and actually at work in the service;

<sup>1</sup> Rules and regulations respecting the various subjects enumerated in Section 8 have been made by the Board and approved by the Minister.

Class E. Those who, previous to the coming into force of this Act, entered the service at such an advanced age as to cause them to reach the age of seventy years before being fifteen years in the service; provided that on attaining the age of seventy years they have been at least ten years in the service.

13. The allowance to be paid under this Act shall be a monthly allowance of one and one-half per cent of the average monthly pay received by an employee for the eight years immediately preceding his retirement for each year of his service, and shall be paid monthly from the fund upon retirement for the remainder of his life.

(2) In ascertaining the average monthly pay received by an employee for the said eight years, if in any month the employee did not receive an amount equal to one-half of his then regular monthly salary or wage, such month and the amount received by him for such month shall not be included; and in the case of an employee in the service at the time of the coming into force of this Act whose salary or wage has been reduced for a period at the end of his service on account of inability from old age, or mental or physical infirmity, to perform the duties required of him, the average monthly pay, in the discretion of the Board with the approval of the Minister, shall be reckoned for the eight years immediately preceding the date at which his salary or wage was so reduced.

(3) In no case shall the monthly allowance to any person be less than twenty dollars per month, or more than two-thirds of the said average monthly pay.

(4) The monthly allowance shall be payable from the first day of the month next succeeding the date of retirement under this Act, and thereafter shall become due and payable on the first day of each month.

14. For the purposes of this Act, service shall be reckoned from the date of entry into service to the date of retirement; provided that no period of service, rendered after the coming into force of this Act, and after an employee has attained the age of seventy years shall be included in the computation; provided, also that, if the service has not been continuous, for any reason, the period or periods during which the service has been interrupted and for which the employee has received no remuneration shall not be counted; provided further that a fraction of a month less than one-half shall not be counted, and that a fraction equal to or more than one-half shall be counted as one month.

14a. Notwithstanding anything in this Act, when an employee who is a member of the executive of any recognized labour organization absents himself from his duties as such employee, to attend:—

(a) meetings of the said executive; or

(b) meetings of the said executive with representatives of other similar organizations; or

(c) meetings of the said executive with the representatives of any railway company; if within fifteen days from the end of the month in which he so absented himself, he files with the comptroller of the railway, a certificate signed by the secretary of the said organization, setting out:—

(i) The name of the said organization, and that the employee is a member thereof in good standing;

(ii) The office held by the employee in the said organization; and

(iii) The length of time the employee acted as the authorized representative of the said organization; and if he pays to the said comptroller a sum equal to the amount which would have been deducted from his salary and appropriated to the fund if he had not so absented himself from his said duties,—

His Majesty shall contribute to the said fund the same amount as would have been payable if such employee had not absented himself during such time from his said duties, and thereafter such employee shall be entitled to the same benefits that he would have been entitled to if he had not so absented himself.

(2) In this section "comptroller" means the person acting in the capacity of comptroller of the railway or any person named by the general manager to act, for the time being, for the purposes of this section. 1913, c. 26, s. 2.

15. Every person entering the service after the coming into force of this Act, shall, although he contributes to the fund as provided by this Act, before being entitled to participate in any of the benefits to be derived therefrom, work at least six months in the service on probation, and at the end of such probationary period pass before a duly qualified medical practitioner a medical examination satisfactory to the Board and obtain from the general manager a certificate in writing that he considers him competent to perform the duties required of him. Upon any such person failing to pass such medical examination or to obtain such certificate he shall no longer be a contributor to the fund, and shall be refunded the whole amount of his contributions to the fund, without interest.

16. No person shall be entitled to an allowance under this Act on account of physical or mental incapacity, or permanent disability, unless he is first examined and his case is passed upon by a physician appointed by the Board, and unless his allowance is approved under this Act.

(2) The decision of the Board upon the report of the physician as to the employee's physical or mental capacity or permanent disablement shall be final.

(3) The cost and expense of such medical examination or any other medical examination required under this Act, or by the Board, shall be a charge against, and shall be paid out of, the fund.

17. The following employees, notwithstanding anything in this Act, shall not participate in any of the benefits of the fund under this Act, nor be entitled to a refund of any portion of the contributions made by them to the fund, that is to say:—

(a) Those, except as in this Act provided, who voluntarily retire from the service; (b) those who are discharged from the service on account of wilful default, misconduct, negligence in the performance of their duties, drunkenness, fraud or dishonesty, and are not reinstated. 1907-8, c. 37, s. 1.

(2) In the case of any employee discharged from the service on or after the first day of April, one thousand nine hundred and seven, for or on account of having been engaged in partisan work in connection with any Dominion or provincial election, the Board, notwithstanding anything in this Act, may, with the approval of the Minister, pay out of the fund the whole of such employee's contribution to the fund, but without interest. 1913, c. 26, s. 1.

18. This Act shall not apply to any employee who is subject to the provisions of The Civil Service Superannuation Act, nor to any person entering the service after the coming into force of this Act, and after having attained the age of thirty-five years, if inexperienced in railway work, or of forty-five years, if experienced in railway work or professionally employed; and the question as to whether such person at the time of his entry is a person experienced or not in railway work, or professionally employed, shall be for the determination of the Minister on the report of the Board.

19. Employees who are discharged from the service, for any cause other than those mentioned in paragraph (b) of section 17, after they have been three or more years contributors to the fund, may be paid out of the fund the total amount of their contributions to the fund, but without interest and less the cost and expenses of medical examinations.

20. In the event of an employee who has been a contributor to the fund dying, while in the service, the Board, with the approval of the Minister, may pay out of the fund to the beneficiary named by the employee, or failing such beneficiary, to his widow, or if he should leave no widow, then to his child, or children, parent or other relative or relatives, and in such proportions as, in its uncontrolled discretion, the Board with the approval of the Minister determines a sum, equal to ninety per cent of the total amount of such employee's contributions to the fund, but without interest.

21. Any person in receipt of a monthly allowance under this Act shall cease to be a regular member of the Association and shall thereby relinquish all claim to any sick or accident benefits from the association; provided that he may, if he so desires, retain his membership in the association in regard to the life insurance feature of the association, in which case the Board may each month deduct and pay over to the Association out of his monthly allowance, the monthly death-levy due by him to the Association.

(2) No person shall be entitled to receive both a monthly allowance under this Act, and the total-disability allowance from the Association, but it shall be optional with him, at the time of his retirement, to designate which he shall receive.

22. Whenever it is determined by the Board or the Minister (a) that the monthly allowances to be paid under this Act create demands in excess of the contributions to the fund, or greater than the fund will provide for, or that the fund is not, or is not likely to be, sufficient to continue the payment of such allowances, or (b) that the monthly contributions to be paid by the employees under this Act are in excess of the requirements of the fund, and as often as any or either of such conditions arise, the Board may, with the approval of the Minister, and shall at the request of the Minister, with respect to (a), either increase the amount of the contribution by the employees, or create a new basis ratably reducing the monthly allowances so that the expense may be brought within the limit of the fund, and with respect to (b), decrease the amount of the monthly contributions to be paid by the employees, and the actions of the Board in increasing or decreasing the contributions or establishing such new basis shall, upon being approved by the Minister, be conclusive and binding upon the employees.

(2) Notice of such increase or decrease or new basis shall be given in such manner as the Board prescribes, at least one month prior to the date fixed for the taking effect thereof.

23. The monthly allowance to which any person shall be entitled under this Act shall not be alienable or liable to attachment, levy or seizure by or under any legal process.

24. The acceptance of a monthly allowance by any person under this Act shall not debar him from engaging in any other business or occupation; provided that the Board,



with the approval of the Minister, may, in the case of any recipient of a monthly allowance under the age of sixty years being wholly or partially so engaged, modify or reduce his allowance or deal with his case as it thinks fit; but should he re-enter the service his monthly allowance shall cease.

25. Except as in this Act expressly provided, nothing in this Act, and no action taken or payment made by virtue hereof, shall be construed as giving or deemed to give any person or employee any right to be retained in the service; or any right or claim to any allowance or refund; and the right is expressly reserved to the Minister to discharge at any time any employee when the interests of the railway in his judgment so require; without any liability on the part of His Majesty, or any officer acting under this Act, for any claim for or on account of any contribution, refund or allowance under this Act.

26. Nothing in this Act, and no action taken, thing done or payment made by virtue hereof, shall relieve His Majesty from liability in the event of damage arising from the negligence, omission or default of any officer, employee or servant of the Minister.

27. This Act shall come into force on the first day of April, 1907.

#### Protection of Wages on Eastern Division of National Transcontinental Railway.

Chapter 48.—1. Sections 2, 3 and 4 of The Wages Liability Act, chapter 98 of the Revised Statutes, 1906, shall apply to contractors and sub-contractors in the construction of the Eastern Division of the National Transcontinental Railway, or any part thereof, let under contract by the Commissioners, the Commissioners being substituted in the said sections, for the purposes of such application, for the Minister entering into contract or by whom the work under a contract is being executed.

#### Fair Wages to Employees on Public Works.

[In March, 1900, a Fair Wages Resolution was passed by the House of Commons, and on August 30, 1907, in order to make this resolution more effective, an Order in Council was passed which reads as follows:—]

The Governor General in Council to more effectively further the purpose of the Fair Wages Resolution of the House of Commons of Canada, of March, 1900, which reads as follows:—

“That it be resolved that all Government contracts should contain such conditions as will prevent abuses which may arise from the sub-letting of such contracts, and that every effort should be made to secure the payment of such wages as are generally accepted as current in each trade for competent workmen in the district where the work is carried out, and this House cordially concurs in such policy, and deems it the duty of the Government to take immediate steps to give effect thereto.”

“It is hereby declared that the work to which the foregoing policy shall apply includes not only work undertaken by the Government itself, but also all work aided by grant of Dominion public funds,”—

is pleased to Order and it is hereby ordered that hereafter all Government contracts to which said Resolution applies shall contain the following clauses:—

1. Contractors shall post in a conspicuous place on the public works under construction, the schedule of wages inserted in their contracts for the protection of the workmen employed.

2. Contractors shall keep a record of payments made to workmen in their employ. The books or documents containing such record shall be open for inspection by the Fair Wages Officers of the Government at any time it may be expedient to the Minister of Labour to have the same inspected.

#### STATUTES OF 1909.

#### Department of Labour.

Chapter 22.—1. This Act may be cited as The Labour Department Act.

2. There shall be a department of the Government of Canada which shall be called the Department of Labour, over which the Minister of Labour for the time being, appointed by the Governor General by Commission under the Great Seal, shall preside.

(2) The Minister of Labour shall hold office during pleasure, and shall have the management and direction of the department.

(3) The salary of the Minister of Labour shall be seven thousand dollars per annum.

3. The Governor in Council may also appoint an officer who shall be called the Deputy Minister of Labour, and such officers, clerks and servants as are requisite for the proper conduct of the business of the department, all of whom shall hold office during pleasure.



4. The Minister of Labour shall be charged with the administration of The Conciliation and Labour Act and The Industrial Disputes Investigation Act, 1907, and with such other duties as may be assigned to him by the Governor in Council.

### Bribery of Employees.

Chapter 33.—1. This Act may be cited as the Secret Commissions Act, 1909.

2. In this Act, unless the context otherwise requires,—

(a) "consideration" includes valuable consideration of any kind;

(b) "agent" means any person employed by or acting for another, and includes a person serving under the Crown or under any municipal or other corporation;

(c) "principal" includes an employer.

3. Everyone is guilty of an offence and liable, upon conviction on indictment, to two years' imprisonment, or to a fine not exceeding two thousand five hundred dollars, or to both, and, upon summary conviction, to imprisonment for six months, with or without hard labour, or to a fine not exceeding one hundred dollars, or to both, who,—

(a) being an agent, corruptly accepts or obtains or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do, or for having after the passing of this Act done or forborne to do, any act relating to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person with relation to his principal's affairs or business; or

(b) corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward or consideration to such agent for doing or forbearing to do, or for having after the passing of this Act done or forborne to do, any act relating to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person with relation to his principal's affairs or business; or

(c) knowingly gives to any agent, or, being an agent knowingly uses with intent to deceive his principal, any receipt, account, or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which, to his knowledge, is intended to mislead the principal;

(d) every person who is a party or knowingly privy to any offence under this Act shall be guilty of such offence and shall be liable upon conviction to the punishment hereinbefore provided for by this section.

4. This Act shall be read as if its provisions formed part of The Criminal Code.

### STATUTES OF 1910.

#### Alien Labour—Regulation of Immigration—Protection of Immigrant Labourers.

[Chapter 27, with amendments, regulates immigration into Canada. The provisions of this Chapter are for the most part applicable to immigrants in general, and the Act as a whole is, therefore, somewhat outside the field of labour legislation. Certain portions of the Act, however, are specially applicable to immigrant labourers. The sections in question provide for regulations as to monetary and other requirements from specified classes of immigrants, for protection of immigrants from misrepresentations of the state of the labour market in Canada, and for regulations respecting employment agencies as follows:—]

37. Regulations made by the Governor in Council under this Act may provide as a condition to permission to land in Canada that immigrants and tourists shall possess in their own right money to a prescribed minimum amount, which amount may vary according to the race, occupation or destination of such immigrant or tourist, and otherwise according to the circumstances; and may also provide that all persons coming to Canada directly or indirectly from countries which issue passports or penal certificates to persons leaving such countries, shall produce such passports or penal certificates on demand of the immigration officer in charge before being allowed to land in Canada.<sup>1</sup>

<sup>1</sup> According to regulations now in force, any immigrant (other than an Asiatic) seeking to enter Canada at any time between May 1 and October 31, must have in his possession at least \$25, and if such immigrant is the head of a family he must have \$25 for each member of eighteen years or upwards, and \$12.50 for each member between the ages of five and eighteen years. Any such immigrant seeking to enter Canada at any other time of the year must have in his possession double the above amounts. Another regulation establishes a monetary requirement of at least \$200 for Asiatic immigrants other than those to whom special statutory regulations or treaty stipulations apply.

38. The Governor in Council may, by proclamation or order whenever he deems it necessary or expedient,—

(a) prohibit the landing in Canada or at any specified port of entry in Canada of any immigrant who has come to Canada otherwise than by continuous journey from the country of which he is a native or naturalized citizen, and upon a through ticket purchased in that country, or prepaid in Canada;

(b) prohibit the landing in Canada of passengers brought to Canada by any transportation company which refuses or neglects to comply with the provisions of this Act;

(c) prohibit for a stated period, or permanently, the landing in Canada, or the landing at any specified port of entry in Canada, of immigrants belonging to any race deemed unsuited to the climate or requirements of Canada, or of immigrants of any specified class, occupation or character.<sup>1</sup>

55. Every person who causes or procures the publication or circulation, by advertisement or otherwise, in a country outside of Canada, of false representations as to the opportunities for employment in Canada, or as to the state of the labour market in Canada, intended or adapted to encourage or induce, or to deter or prevent, the immigration into Canada of persons resident in such outside country, or who does anything in Canada for the purpose of causing or procuring the communication to any resident of such country of any such representations which are thereafter so published, circulated or communicated, shall be guilty of an offence against this Act, and liable on summary conviction before two justices of the peace, to a fine of not more than five hundred dollars, or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

66. The Governor in Council may make such regulations and impose such penalties as are deemed expedient to safeguard the interests of immigrants seeking employment from any companies, firms, or persons carrying on the business of intelligence offices or employment of labour agencies at any place in Canada.<sup>2</sup>

79. All provisions of this Act not repugnant to the provisions of The Chinese Immigration Act shall apply as well to persons of Chinese origin as to other persons.

## STATUTES OF 1914.

### Protection of Fishermen.

Chapter 8.—63. No dory, flat, whaler or other boat whatsoever shall set out from any vessel engaged in deep-sea or bank fishing or be launched therefrom for the purpose of fishing with hooks and lines, trawls or other similar appliances, or with intent that the same shall be used in so fishing, or for the purpose of examining trawls, set lines or other similar appliances for fishing, unless there is placed in such boat, to be retained therein during the absence from such vessel, a mariner's compass, nor unless there is placed in such boat at least two quarts of drinking water and two pounds of solid food for each man of the crew of such boat.

(2) The owner of such vessel, shall supply her at the commencement of her voyage with as many serviceable mariner's compasses, as she carries boats, in addition to the vessel's compass, and also with the necessary utensils for holding water and with a serviceable fog-horn or trumpet.

(3) No collector or other customs officer shall grant a clearance to such vessel or allow her to go to sea unless the master thereof has a certificate from a fishery officer or other person authorized by the Minister to give such certificates that the vessel is properly equipped with a mariner's compass and suitable utensils for holding water for each boat carried by her and with a serviceable fog-horn or trumpet.

79. The owner of any vessel, who,—

(a) permits any dory, flat, whaler, or other boat whatsoever to set out from any vessel engaged in deep-sea or bank fishing, or to be launched therefrom for the purpose of fishing with hooks and lines, trawls, or other similar appliances, or with intent that

<sup>1</sup> Under the authority of this section, a regulation is in force prohibiting the landing in Canada of any immigrant who has come to the country otherwise than by continuous journey on a through ticket. Other Orders-in-Council have been passed from time to time prohibiting the landing of any immigrant artisan or labourer, skilled or unskilled, at designated ports of entry in British Columbia between certain dates specified in the order.

<sup>2</sup> Important regulations were issued under the authority of this section in May, 1913. Every employment agency having dealings with immigrants is required to obtain a license for the purpose from the Superintendent of Immigration, and to keep records respecting the immigrants doing business at the office. False representations concerning the condition of the labour market in Canada are forbidden, and the maximum fee chargeable by an agency for securing employment for an immigrant is fixed at \$1. Provisions governing the engaging of immigrants for employers by agencies are also included in the regulations.

the same shall be used in so fishing, or for the purpose of examining trawls, set lines or other similar appliances for fishing without there being placed in such boat to be retained therein during absence from such vessel, a mariner's compass, and at least two quarts of drinking water and two pounds of solid food for each man of the crew of such boat; or,

(b) fails to supply any vessel by him so engaged in deep-sea or bank fishing, at the commencement of her voyage with as many serviceable mariner's compasses as she carries boats, in addition to the vessel's compass and also with the necessary utensils for holding water and with a serviceable fog-horn or trumpet; shall be guilty of an offence against this Act, and shall be liable for each such offence to a penalty of not less than two hundred dollars and costs and not more than five hundred dollars and costs, or to imprisonment for a term of not less than six months and not exceeding twelve months, or both.

(2) The master of any such vessel from which a boat is launched or sets out in contravention of the provisions of this section shall also be guilty of an offence against this Act, and shall be liable therefor to a penalty of not less than one hundred dollars and costs and not more than two hundred and fifty dollars and costs, or to imprisonment for a term not less than six months, or to both.

(3) The owner and master of any such vessel which goes to sea or attempts to go to sea without first obtaining and exhibiting to the collector or other proper customs officer a certificate from a fishery officer or other person authorized by the Minister to grant such certificates that the vessel is properly equipped with a mariner's compass and suitable utensils for holding water for each boat carried by her and with a serviceable fog-horn or trumpet, shall each be guilty of an offence against this Act and shall each be liable therefor to a penalty of not less than one hundred dollars and costs and not more than two hundred dollars and costs or to imprisonment for a term not exceeding six months.

#### Use of White Phosphorus in Matches.

Chapter 12.—1. This Act may be cited as The White Phosphorus Matches Act.

2. In this Act, unless the context otherwise requires,—

(a) "Minister" means the Minister of Labour;

(b) "white phosphorus" means the substance usually known as white or yellow phosphorus;

(c) "inspector" means any person authorized by regulation or appointed by the Minister to perform any duties under this Act or under any regulation made thereunder;

(d) "regulation" means and includes any order or regulation made by the Governor in Council under the authority of this Act.

3. It shall not be lawful for any person to use white phosphorus in the manufacture of matches.

(2) The owner or operator of any factory in which the manufacture of matches is carried on shall allow any officer of the Department of Labour, authorized by the Minister, at any time to take therefrom for analysis sufficient samples of any material in use or mixed for use: Provided that the owner or operator may, at any time when the sample is taken, and on providing the necessary appliances, require the said officer to divide the sample so taken into two parts and to mark, seal and deliver to him one part.

4. It shall not be lawful to import into Canada matches made with white phosphorus, and matches so made shall be included amongst the goods enumerated and described in Schedule C to The Customs Tariff, 1907.

5. It shall not be lawful for any person to use, sell, or to offer or expose for sale, or to have in his possession for the purposes of sale, any matches made with white phosphorus.

6. Any person who is manufacturing or proposing to manufacture matches by way of trade may present a petition to the Commissioner of Patents, praying for the grant of a compulsory license to use any process patented at the time of the passing of this Act for the manufacture of matches without white phosphorus.

(2) The Commissioner of Patents, after considering any representations that may be made by the patentee, or his legal representatives, or any person claiming an interest in the patent, may order the patentee or other interested party to grant a license to such petitioner on such terms as he may consider just: Provided that the Commissioner may, if he thinks fit, and shall on the request of any one of the parties to the proceedings, call in the aid of an assessor, specially qualified, and hear the case wholly or partially with his assistance.

(3) An order of the Commissioner of Patents directing the grant of license under this section shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a license and made between the petitioner and patentee and such other persons claiming an interest in the patent as aforesaid.

7. The Governor in Council may make such orders and regulations, as to him seem necessary for the carrying out of the provisions of this Act.

(2) Such orders and regulations shall have the same force and effect as if embodied in this Act.

(3) Every such order or regulation shall be published in The Canada Gazette.

8. The certificate of an inspector shall, for the purposes of this Act, be prima facie evidence in all courts of justice and elsewhere of the matter certified.

9. Any inspector may, at any time, for the purpose of carrying into effect any of the provisions of this Act or any regulation made thereunder, enter any place or premises, or any steamship, vessel or boat, or any carriage, car, truck or other vehicle used or which the inspector or other person suspects is being used for the storage or carriage of matches made with white phosphorus, and may also open any package or store containing matches made with white phosphorus or which he suspects to contain such matches.

10. Every person who refuses to admit, or who obstructs or impedes an inspector, and every person who aids and assists him therein, shall be liable on summary conviction to a penalty not exceeding five hundred dollars and costs.

11. Every person who violates any provision of this Act, or of any regulation made thereunder, in respect of which no penalty is hereinbefore provided, shall be liable on summary conviction to a penalty not exceeding five hundred dollars and costs.

12. Every offence against this Act, or against any regulation, shall, for the purposes of proceedings under this Act, or of any such order or regulation, be deemed to have been committed, and every cause of complaint under this Act, or any such regulation, shall be deemed to have arisen either in the place in which it actually was committed or arose, or in any place in which the person charged or complained against happens to be.

13. This Act shall come into force on the first day of January, one thousand nine hundred and fifteen, except section 5 thereof which shall not come into force until the first day of January, one thousand nine hundred and sixteen.

### Regulation of Importation, Manufacture, and Use of Explosives.

Chapter 31. [Not yet in force.]-1. This Act may be cited as The Explosives Act. Interpretation.

2. In this Act, unless the context otherwise requires,—

(a) "Department" means the Department of Mines;

(b) "Minister" means the Minister or Acting Minister of Mines; or such Minister as the Governor in Council may designate to administer this Act;

(c) "authorized explosive" means any explosive the manufacture or importation of which has been authorized under this Act;

(d) "explosive" means gunpowder, blasting powder, nitroglycerine, gun cotton, dynamite, blasting gelatine, gellignite, fulminates of mercury, or other metals, coloured fires, and every other substance whether chemical compound or mechanical mixture, used or manufactured with a view to produce a violent effect by explosion, or a pyrotechnic effect, and includes fire works, fuses, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, fog and other signals, and every other adaption or preparation of an explosive as above defined;

(e) "factory" means and includes any building, structure or premises in which the manufacture, or any part of the process of manufacture of an explosive, is carried on, and any building or place where any ingredient of an explosive is stored during the process of manufacture;

(f) "inspector" means and includes the chief inspector of explosives, an inspector of explosives, a deputy inspector of explosives, and any other person who is directed by the Minister to inspect an explosive or explosive factory or magazine, or to hold an inquiry in connection with any accident caused by an explosive;

(g) "magazine" means and includes any building, storehouse, structure or place in which any explosive is kept or stored, other than at or in and for the use of a mine or quarry in a province in which provision is made by the law of such province for the efficient inspection of mines and quarries and explosives used in connection therewith; but does not include the place in which an authorized explosive is kept for the purposes of conveyance when the same is being conveyed or kept in accordance with the provisions of this Act, nor the structure or place in which is kept for private use, and not for sale, an authorized explosive to an amount not exceeding that allowed by regulation under this Act, nor any store or warehouse containing authorized explosives to an amount not exceeding that allowed by regulation under this Act or authorized by any provincial or local authority;

(h) "operator" means any person who operates a factory for manufacturing explosives, or is the manager of or in charge of such factory, or who is the occupant of or uses a magazine for the storage of explosives;

(i) "regulations" means any regulations made by the Governor in Council under the authority of this Act;

(j) "safety cartridges" means cartridges for guns, rifles, pistols, revolvers and other small arms, of which the case can be extracted from the small arm after firing, and which are so closed as to prevent any explosion in one cartridge being communicated to other cartridges.

3. This Act shall not apply to the Department of Militia and Defence or the Department of the Naval Service.

#### Importation, Manufacture and Use.

4. Except as herein provided, no person shall have in his possession, or import, store, use or manufacture, whether wholly or in part, or sell, any explosive unless such explosive has been declared by the Minister to be an authorized explosive.

5. Nothing in this Act shall apply to the making of a small quantity of explosive for the purpose of chemical experiment, and not for practical use or sale.

6. Except in so far as may be permitted by regulations made under this Act, no person, except in licensed manufacturing factories, shall carry on any of the following processes, namely:—of dividing into its component parts, or otherwise breaking up or unmaking, any explosive; of making fit for use any damaged explosive; or of remaking, altering or repairing any explosive: Provided that this section shall not apply to the process of thawing explosives containing nitro-glycerine, if a proper apparatus or thawing-house is used in accordance with regulations made under this Act or any Provincial law.

#### Licenses and Permits.

7. The Minister may issue licenses for factories and magazines, and no one shall manufacture, either wholly or in part, or store explosives except in licensed factories and magazines.

(2) Notwithstanding any provisions contained in this Act the Governor in Council, upon the recommendation of the Minister, based upon the report in writing of the deputy minister, accompanied by certificates from the chief inspector and chief chemist of explosives approving of the nature of the components and of the final explosive product, may allow the inexplusive component parts of an authorized explosive from licensed factories and magazines to be assembled and blended at or near the point of use, and such place of blending shall not be deemed a factory or magazine within the meaning of this Act.

8. The Minister may issue permits for the importation of authorized explosives, and no one shall import any explosive into Canada, other than safety cartridges, without such permit: Provided, however, that nothing in this section shall prevent any explosive from being transported through Canada by railway in bond, if such transportation is made in a manner authorized by the Railway Act or any regulation or order made thereunder.

9. The Minister may, on application, and on payment of the prescribed fees, issue a special permit to import, for the purpose of chemical analysis or scientific research, an amount not exceeding two pounds of any explosive specified in such permit.

10. Applications for factory or magazine licenses shall be made in such form and manner as are prescribed by regulation, and the application shall be accompanied by,—

(a) a plan, drawn to scale, of the proposed factory or magazine and of the land on which such factory or magazine is situated, and also of the lands adjacent thereto on which buildings are erected, with the uses to which such lands and buildings are now put. Such plan to have the exact distances between the several buildings marked thereon.

(b) a description of the situation, character and construction of all buildings and works connected with the factory or magazine, and the maximum amount of explosive to be kept in each building;

(c) a statement of the maximum number of persons to be employed in each building in the factory or magazine;

(d) any information or evidence which the Minister may require;

(e) in the case of an application for a factory license, a statement of the maximum amount of explosive, and of ingredients thereof wholly or partially mixed, to be allowed at any one time in any building, machine, or process of the manufacture, or within the distance from such buildings or machine which is limited by regulation;

(f) a statement of the nature of the processes to be carried on in the factory and in each part thereof, and the place at which each process of the manufacture, and each description of work connected with the factory is to be carried on, and the places in the factory at which explosives and anything liable to spontaneous ignition, or inflammable or otherwise dangerous, are to be kept.

11. The Minister may, on application and on payment of such fees as are prescribed by regulation, issue a permit to manufacture for experimental or testing purposes only, and not for sale, any new explosive, upon such conditions and subject to such restrictions as are fixed by the Minister.

12. The owner or operator of a factory or magazine shall not make any material alteration or addition to a licensed factory or magazine, or rebuild any part thereof, until he has obtained a permit from the Minister; and before such permit may be granted he shall submit such plans and other information and evidence as the Minister may require.

13. A factory or magazine license shall not be affected by any change in the persons who own or operate the factory or magazine; but notice of such change with the address and calling of the new owner or operator shall be sent to the Minister by the former owner forthwith, and by the new owner within one month after such change, and in default thereof each such owner or operator shall be liable to a penalty not exceeding one hundred dollars for each week during which such default continues, and if the occupier is not himself the owner he shall also be liable to the same penalty.

14. In the case of a factory now in operation or a magazine now in existence, no license shall be required until the first day of January, one thousand nine hundred and sixteen: Provided, however, that if the owner or operator of such factory or magazine desires to make any material alteration in or addition to such factory or magazine, or to rebuild the same or any part thereof, he shall comply with the provisions of section 12 of this Act.

(2) The owner or operator of any such factory or magazine shall, within three months after the passing of this Act, make application to the Minister for a continuing certificate, stating in such application his name and address and the situation of the factory or magazine, and shall supply such particulars and information respecting the same as the Minister may require; and the applicant shall thereupon be granted a continuing certificate in such form as may be prescribed by the Minister, and such factory or magazine shall thereupon be deemed to be duly authorized to manufacture and store explosives.

(3) Notwithstanding anything in this section, the Minister may require the owner or operator of any factory or magazine to stop using, or to use only under and subject to conditions to be specified by the Minister, any building, structure or premises which, from its situation or from the nature of the processes carried on therein, constitutes, in his opinion, a special danger.

#### Inspectors

15. The Governor in Council may appoint a chief inspector of explosives, one or more inspectors of explosives, one or more deputy inspectors of explosives, and one or more chemists of explosives.

16. An inspector may, at any time, visit and inspect any factory, magazine and premises where any explosive is being manufactured or stored, or where he has reason to suspect any explosive is being manufactured or stored, and may open and examine any package that he may there find; and the owner and operator of such factory, magazine and premises shall afford such inspector every facility to make such inspection full and complete, and shall supply the inspector with any information that he may require, other than information relating to the cost of manufacturing an explosive.

(2) An inspector may require the owner or operator of any factory or magazine, where any explosive is manufactured or stored, or any person employed in any such place, to give him such samples as he may require of any substance therein, whether in the state of raw material, material in course of manufacture, or manufactured material, which the inspector believes to be an explosive, or to be an ingredient from which an explosive may be manufactured.

(3) An inspector may, at any time, open or cause to be opened any package or store of material of whatsoever nature, which he believes to contain explosives or ingredients for the manufacture of explosives.

#### Inquiries Into Accidents.

17. The Minister may direct an inquiry to be made whenever any accidental explosion of any explosive has occurred, or when any accident has been caused by an explosive, and the person authorized by the Minister to conduct such inquiry shall have all the powers and authority of a commissioner appointed under Part I of the Inquiries Act.

(2) This section shall not apply, however, where an accident has been caused by an explosion of an explosive occurring in any mine or quarry or metallurgical work in any province in which provision is made by the law of such province for a proper and thorough investigation and inquiry into the cause of such accident.



## Regulations.

18. The Governor in Council may make regulations,—

(a) for classifying explosives, and for prescribing the composition, quality and character of explosives;

(b) prescribing the form and duration of licenses, permits and certificates issued under this Act, the terms and conditions upon which such licenses, permits and certificates shall be issued, and the fees to be paid therefor;

(c) for regulating the importation, packing and handling of explosives, and the transportation of explosives otherwise than by railway;

(d) for inquiries into the accidental explosion of explosives, and any accident caused by explosives;

(e) for the taking of samples of explosives required for examination and testing, and for the establishing of testing stations, and of the tests and other examinations to which explosives shall be subjected;

(f) prescribing the manner in which an explosive shall be tested and examined before it is declared to be an authorized explosive, and for determining to what examinations and tests authorized explosives shall be subject;

(g) to be observed by inspectors and other officers and employees charged with any duty under this Act, or under any regulations made thereunder;

(h) relating to the construction, and management and licensing of factories and magazines;

(i) for the safety of the public and of the employees at any factory or magazine, or any person engaged in the handling or packing of explosives, or the transportation of explosives otherwise than by railway;

(j) governing the establishment, location and maintenance of factories and magazines, and the manufacture and storage of explosives;

(k) for blending the inexplusive components of an authorized explosive;

(l) limiting the amount of authorized explosives that may be kept in places other than licensed factories and magazines, and prescribing the manner in which it shall be handled and stored in such places;

(m) regarding the thawing of explosives;

(n) for the more effective carrying out of this Act.

(2) All regulations made under this Act shall be published in *The Canada Gazette*, and upon being so published they shall have the same force as if they formed part of this Act.

## Offences and Penalties.

19. Every person who fails to permit an inspector to enter upon any property, and to inspect, examine or make inquiries in pursuance of his duties, and every person who fails to comply with any order or direction of such inspector, in pursuance of the requirements of this Act or any regulation made thereunder, or who, in any manner whatsoever, obstructs such inspector in the execution of his duties under this Act, shall be liable to a penalty not exceeding five hundred dollars and costs, or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

(2) Any owner or operator who takes exception to the ruling of an inspector before such ruling or before the penalty provided for in subsection 1 of this section is enforced as the case may be, may have the facts upon which such ruling is based submitted to the Minister for his consideration and decision.

20. Every person who enters without permission or lawful authority or otherwise trespasses upon any factory or magazine shall, for every offence, be liable to a penalty, not exceeding fifty dollars and costs, and may be forthwith removed from such factory or magazine by any constable or by any person employed at such factory or magazine.

21. Every person who commits any act which is likely to cause an explosion or fire in or about any factory or magazine, shall be liable to a penalty not exceeding five hundred dollars and costs, or to imprisonment not exceeding six months, or to both such fine and imprisonment.

22. Every person who, by himself or his agent, has in his possession, sells, offers for sale or manufactures or imports any unauthorized explosive within the meaning of this Act shall, for a first offence, be liable to a penalty not exceeding two hundred dollars and costs, or to imprisonment for a term not exceeding three months, or to both fine and imprisonment, and for each subsequent offence shall be liable to a penalty not exceeding five hundred dollars and costs and not less than fifty dollars and costs, or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

23. Every person who violates any provision of this Act for which a penalty has not been provided, or any regulation made thereunder, shall, for the first offence, incur a penalty not exceeding two hundred dollars and costs, and for each subsequent offence a penalty not exceeding five hundred dollars and costs.



24. Any official employed under this Act who without due authority from the Department discloses any confidential information shall on summary conviction be liable to a penalty not exceeding two hundred and fifty dollars or to imprisonment for a term not exceeding three months and shall not thereafter be eligible for employment in the service of His Majesty.

25. Every penalty and forfeiture may be recovered in a summary manner under the provisions of Part XV of the Criminal Code.

26. Nothing in this Act shall relieve any person of the obligation to comply with the requirements of any license law, or other law or by-law of any province or municipality, lawfully enacted, with regard to the storage, handling, sale or other dealing with explosives, nor of any liability or penalty imposed by such law or by-law for any violation thereof.

#### Commencement of Act.

27. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.<sup>1</sup>

#### Pilots and Apprentices in Pilotage District of Quebec—Powers of Minister of Marine and Fisheries.

Chapter 48.—1. The Minister of Marine and Fisheries subject to the provisions of the Canada Shipping Act, shall have charge of the examination, licensing, control and management of the pilots and pilot apprentices, and the control and management of pilot schooners, boats and other vessels for the pilotage district of Quebec; of all questions respecting pilotage arising in connection with such district, and of the collection of pilotage dues in respect of such district; and all powers vested in the Corporation of Pilots for and below the harbour of Quebec under the provisions of Part VI of the Canada Shipping Act,<sup>2</sup> with respect to such matters, are hereby transferred to and vested in the said Minister.

2. All the powers of the Corporation of Pilots for and below the harbour of Quebec with respect to the examination, management and control of pilots and pilot apprentices, and the control and management of pilot schooners, boats and other vessels, the collection of pilotage dues, and the management and control of pilotage, are hereby repealed.

3. Nothing in this Act shall be deemed to affect any power now possessed by the said corporation in connection with the management and disposal of the pilot pension fund: Provided that any such power shall be exercised subject to such supervision as has been heretofore exercised by the Minister.

<sup>1</sup> The day for this Act to come into force has not yet been fixed.

<sup>2</sup> See pages 57 to 63 inclusive of this Report.

## PRINCE EDWARD ISLAND.

## REVISED STATUTES, 1773-1868.

## Sunday Labour.

1780, Chapter 3 with amendment.—2. No truckman, driver of carts, labourer, or other person whatsoever, shall hereafter do or perform any labour, work or business appertaining to his or their respective ordinary callings or professions, or other worldly labour, or suffer the same to be done by his, her, or their child or children, servant or servants, either by land or by water (works of necessity and charity only excepted), . . . . . in any of the county towns, or other parts or places wheresoever within this Island, on the Lord's Day, or any part thereof, upon pain, that every person so offending, upon conviction thereof by the oath of one credible witness, before any of His Majesty's Justices of the Peace in this Island, or upon view of such Justice, shall, for every such offence, forfeit and pay the sum of ten shillings; the same to be levied, in case of non-payment, by warrant of distress and sale made of the offender's goods—all fines and penalties incurred under this section to be applied to the use of the poor, and disposed of at the discretion of the Justice or Justices before whom the offenders shall or may be convicted; the said Justice or Justices to keep a record of the fines levied and disposed of by them. 1892, c. 29, s. 2.

## Employment of Labour—General Provisions.

1833, Chapter 26.—[Section 1, repeals 35 George III., chapter 4].

2. . . . . from and after the passing hereof, all contracts that shall be entered into relative to the hire of servants, if for the term of one month, or for any longer period, shall be made in writing, and signed by the parties thereto, or shall be made verbally in presence of one or more credible witness or witnesses.

3. . . . . every servant who shall or may engage to serve for the term of one calendar month, or for any longer period, in manner aforesaid, and who shall neglect or refuse to perform the full time which he or she hath so contracted to serve, or be wilfully absent from his or her said employment, contrary to the true intent and meaning of his or her said agreement, or shall be absent from his or her said master's or mistress's house, without permission first had and obtained, or shall otherwise misconduct himself or herself, every such servant shall be subject to the loss of his or her wages, and be liable, on conviction, upon complaint made on oath before any two of His Majesty's Justices of the Peace of such neglect or misconduct as aforesaid, to be confined for a period not exceeding one calendar month in the common jail.

4. . . . . all masters and mistresses who shall hereafter hire any servant or servants in manner aforesaid, and who shall ill use or ill treat any such servant so hired, or shall neglect to perform all the conditions on their parts in every such agreement so made or entered into, every such servant may, and they are hereby authorized to make complaint thereof on oath before any two of His Majesty's Justices of the Peace for the county wherein such servant or servants has or have been employed; and such Justices shall have power, and they are hereby directed, to inquire into every complaint so made, and to make such order thereon, either by cancelling the agreement so entered into, or by directing its fulfilment, as to the said Justices shall seem meet; and every servant so discharged by any Justices as aforesaid, shall be entitled to his or her full wages for the term so served, to be recovered as hereinafter mentioned; and the Justices are hereby authorized and required to grant a certificate to every servant so discharged by them certifying the same, which certificate shall be considered a sufficient authority for such servant to be legally hired by any other master or mistress; and in case any servant shall be discharged for ill treatment, the Justices before whom complaint thereof shall be made may order the offending master or mistress to pay a fine to the servant so ill-treated, not exceeding five pounds.

5. . . . . every servant who shall or may hereafter be hired as aforesaid, and who shall fulfil the term contracted to be performed, or who shall be discharged as aforesaid, shall be entitled to receive his or her full wages for the time served; and if the same shall not be paid agreeably to contract so made as aforesaid, or according to the order made by the Justices as aforesaid, every such servant shall have power to recover the same in a summary way—if under the sum of five pounds, before any two of the Commis-

sioners appointed to adjudicate in matters of small debt; or if above that sum, in His Majesty's Supreme Court of Judicature—in which action no imparlance or dilatory plea shall be allowed, unless the Court shall especially direct the same, on affidavit showing the absolute necessity thereof, in order justly to decide the case on its merits.

6. . . . . any person whosoever shall, after the passing of this Act, hire the servant of another, knowing him or her to be such, or shall hire any servant without a written discharge from his or her last master or mistress, if resident within this Island, being produced, shall for every such offence forfeit any pay to the injured party or informer, as the case may be, a sum not exceeding five pounds; and every master or mistress refusing to give a written discharge to any servant or servants, after the term contracted to be performed is fulfilled, shall, on conviction, upon complaint made to any two of His Majesty's Justices of the Peace on oath, forfeit, for every offence, a sum not exceeding five pounds, to be paid to such servant—all which fines shall be recovered, with costs, on the oath of one or more credible witness or witnesses, before any two of His Majesty's Justices of the Peace, by warrant of distress and sale of the offender's goods and chattels; and for want thereof, the offender shall be committed to prison for a period not exceeding two calendar months.

### Apprenticeship.

1845, Chapter 14.—[Section 1, repeals 8 George IV, chapter 1; 5 Victoria, chapter 19; and 3 Victoria, chapter 9.]

2. . . . . it shall be lawful for any parent or parents, guardian or guardians, to bind out as an apprentice, any child of any age as an indented servant, to any tradesman, artisan, or farmer, for a period not exceeding the time when such child shall attain the age of twenty-one years.

3. . . . . any infant of the age of twelve years may be lawfully indented to any tradesman, farmer, or other, by his or her own consent, if such infant have no parent or guardian within the Island, until such infant attain the age of twenty-one years—provided that every such indenture shall be entered into by the respective parties, in the presence of and with the consent of two Justices of the Peace, each of whom shall sign the said indentures, which shall be equally binding, as if they had been signed by the parent or guardian of the said infant; provided, that any two Justices acting in his behalf, may, if they think fit, and in like manner, indent such infant for a shorter period than his or her attaining the age of twenty-one years.

4. . . . . all infants of the age of sixteen and upwards, having no parents or guardians within the Island, may lawfully indent themselves to service to any tradesman, farmer, or other, until he or she shall attain the age of twenty-one years, by indenture under seal, and shall be fully bound thereby.

5. . . . . every indenture entered into as aforesaid, shall contain a stipulation on the part of the master or mistress, his or her executors, administrators or assigns, to cause the indented child to be taught reading, writing, and the common rules of arithmetic.

6. . . . . whenever it shall be made to appear to any two of Her Majesty's Justices of the Peace, either upon the oath of any one or more credible witness or witnesses, or from a certificate under the hands of any eight or more respectable housekeepers residing in any town, or royalty, or township, within this Island, that any mendicant child between the ages of two and twelve years, being an orphan, or whose parent or parents shall have abandoned the care of such child, and shall have left this Island under such circumstances as to such Justices shall be deemed a final departure therefrom, and that such child hath been in the habit of soliciting alms, or receiving charitable contributions or allowances regulated by any charitable association, or being supported by any sums voted by the legislature of this Island, and hath not otherwise means for his or her necessary permanent support, that then and in every such case, it shall be lawful for such Justices to indent any such child as aforesaid, until the age of twenty-one years, or for any less term in the discretion of such Justices, and upon such terms as may be agreed upon between the master and mistress and the said Justices, to any tradesman, farmer, or any other person in manner hereinbefore described: Provided, that every indenture so to be made, shall contain a covenant or stipulation on the part of the master or mistress, his or her executors, administrators or assigns, to cause the indented child to be taught reading, writing, and the common rules of arithmetic.

7. . . . . in all actions at law or suits in equity arising out of any breach of the conditions of any indenture entered into in manner aforesaid in behalf of any pauper, orphan, or abandoned child, such actions or suits shall be brought in the name of the two justices, their executors or administrators, who have been parties to the indenture as aforesaid, and such apprentice, with the permission of the Court in which such suit or action shall be brought shall be allowed to sue *in forma pauperis*.

8. . . . . if any apprentice, indented by virtue of this Act, shall desert, or without leave absent himself or herself from the service of his or her said master or mistress, or otherwise misconduct himself or herself, then it shall and may be lawful for any Justice of the Peace to issue his warrant on the application, on oath, of the master or mistress of such apprentice, for his or her apprehension, which warrant so issued, it shall be lawful for any constable or constables to whom it may be addressed to execute in any County of this Island, notwithstanding it may have been issued by one of Her Majesty's Justices of the Peace not qualified in the County where its execution may be required; and on such apprentice being brought before such justice, he shall, upon the evidence on oath of the said master or mistress, or of any other person, either order him, or her, to return to the service of such master or mistress immediately, or commit the said apprentice to the common jail of the County wherein such master or mistress resides, there to remain for any term not exceeding two calendar months, with or without hard labour, (if a male), for any part of such time, and to require such apprentice thereafter to return to the service of such master or mistress, as he may in his discretion adjudge, and to continue to fulfil the conditions of the indenture; and the Justice's and officer's fees of proceeding in every such case against any apprentice, shall be paid by the parent or guardian of such apprentice, and shall and may be recovered by warrant of distress, or such other usual process as the case may require.

9. . . . . any person or persons wilfully harboring an apprentice deserting, or being absent without leave from his or her master's or mistress's service, or shall, in his or their house, suffer or permit any apprentice to play at cards, dice, or any other unlawful game, or therein to be engaged in any unlawful employment, or who, not being licensed to retail spirituous liquors, shall suffer any such apprentice to sit drinking in his or her house, or give him or her, or suffer to be given to him or her, any intoxicating liquors, each and every person so offending shall forfeit and pay for every such offence any sum not exceeding five pounds, to be recovered with costs before any one of Her Majesty's Justices of the Peace for the County wherein the offence may have been committed, on the oath of any one or more credible witness or witnesses.

10. . . . . if any parent or guardian, becoming bound for any apprentice, shall wilfully represent, that such apprentice is younger than his real or true age, every such parent or guardian shall forfeit and pay for every such offence, any sum not exceeding twenty pounds, the said sum of twenty pounds to be recovered in Her Majesty's Supreme Court or Judicature, by bill, plaint, or information; and if not more than eight pounds, before any court of Commissioners for the recovery of small debts, for the County where such parent or guardian shall reside or before any two of Her Majesty's Justices of the Peace for the same County, in the like manner as small debts are now recovered, on the oath of one or more credible witness or witnesses.

11. . . . . it shall be lawful in all cases of complaint against a master or mistress, by an apprentice, or his or her parent or guardian, on the ground of ill usage, neglect or inability to instruct, or lawfully to maintain, lodge, or clothe any such apprentice, for any one of Her Majesty's Justices of the Peace, having jurisdiction, to summon the master or mistress of such apprentice, to appear before any three of Her Majesty's Justices of the Peace, in order that such complaint may be investigated, who shall (if the master or mistress being lawfully summoned, do not appear), proceed to adjudicate thereon in his or her absence, and it shall and may be lawful for the said three Justices to cancel any indentures between any such apprentice and their master or mistress, proof being made on oath of continued ill usage on the part of such master or mistress, or of his or her neglect or inability to instruct or duly and lawfully to maintain, lodge or clothe any such apprentice, as the case may be.

12. . . . . if it shall be made to appear to such three Justices, that any premium has been paid with any such apprentice, or any wages be due, or clothing unprovided, according to covenants contained in any indenture entered into and produced before such Justices, together with sufficient evidence, on oath, respecting any matters of account, or provision which may be in dispute, it shall and may be lawful for such Justices to include, in any order for the cancelling any such indentures, an order for the equitable restitution of the whole or part of any such premium or payment of any sum that shall appear a just equivalent for any clothing, provision, or any other necessary, to which the said apprentice shall appear, by the covenants of the said indenture, to be entitled, and not to have received.

13. . . . . and whereas it may seem just to the three Justices acting upon the authority of this Act, to order, in certain cases, the person to whom any complaint may be indented, to receive such indented person back into their houses, if such person has been compelled by any master or mistress to leave the same: Be it enacted, that it shall be lawful for such Justices to insert in such order, a clause directing such amount per diem, to be paid to such apprentice, his or her parent or guardian, as shall seem reasonable for the maintenance, as well during the time such apprentice shall have been compelled to be absent from the house of such master or mistress, previous to the hearing of

any complaint before such Justices, as subsequent to the making such order; and such order shall set forth the amount per diem which shall accrue in case of a continued refusal to admit such apprentice.

14. . . . . all orders so made shall be returned under the hands and seals of the two Justices so adjudicating as aforesaid, into the Prothonotary's Office of the Supreme Court of this Island, for the county where such Justices reside, there to be filed, and such orders so made shall not be quashed for want of form; but only, if they contain anything repugnant to the plain meaning of this Act, or the indentures on which they are founded; and the said Supreme Court is hereby authorized and empowered to hear the said appeal, and to quash or vary the said order of the said Justices, with or without costs, as it shall seem just and equitable, and to award judgment, and grant execution, in the usual and customary manner, to the party or parties in whose favour the same shall be determined by the said Court.

15. . . . . if any master or mistress against whom any such order as aforesaid shall be made, shall be dissatisfied therewith, it shall be lawful for such master or mistress to give notice of his or her intention to appeal against such order to the next sitting of Her Majesty's Supreme Court of Judicature; and provided that such notice be given in writing to either of the two Justices, whose hands and seals are set to such order, within four days after the delivery thereof; and provided also, that security be entered into within such period, to the satisfaction of such Justices, by the appellant, and one other sufficient surety, by recognizance, in such amount as they may deem necessary for the due prosecution of the said appeal; then and in such case, the operation of such order shall be suspended.

16. . . . . either one of such Justices aforesaid, shall return the recognizances so entered, into the Prothonotary's Office of the Supreme Court for the County, who shall file the same, together with the order of the said Justices as aforesaid, and in case the conditions thereof be not complied with, then the said recognizances shall be forfeited by the order of the Court, without further proof or application, and the said Court shall, as it is hereby authorized to, grant execution against the said parties so bound in the said recognizance for the amount of such sum as shall have been ordered to be paid by the said Justices, together with reasonable costs, to be taxed in the usual and customary manner.

17. . . . . in case the order remain uncomplied with, it shall be lawful for the Justices aforesaid to issue a warrant of distress for the amount so ordered to be paid as aforesaid, from time to time, against the goods and chattels of the party against whom such order shall have been made; and if no goods and chattels can be found whereon to levy, then it shall be lawful for the said Justices to commit the party or parties to the jail of the County, for a period (if the sum ordered to be paid shall not exceed forty shillings) of one month; and if above forty shillings, and not exceeding three pounds, for the space of three months; and if for any sum above three pounds, and not exceeding five pounds, for the space of five months; and if for any sum above five pounds, and not exceeding eight pounds, for the space of six months.

### Prison Labour.

1849, Chapter 12.—3. . . . . it shall and may be lawful for the Lieutenant Governor, or other Administrator of the Government, by and with the advice and consent of Her Majesty's Council, to appoint three or more fit and proper persons being Her Majesty's Justices of the Peace resident in each of the Counties of this Island, to be Commissioners for carrying into effect the provisions of this Act.

5. . . . . such Commissioners shall have power to make such rules, regulations, and orders, and to prescribe the place, time, and mode of performing such labour, whether within or without such jail, as may to the majority of them seem best adapted to the more effectual punishment of offenders so convicted and imprisoned as aforesaid.

## STATUTES OF 1877.

### Employment of Children—School Attendance.

Chapter 1.—90. Every person having under his control a child between the ages of eight and thirteen shall, annually, during the continuance of such control, send such child to some public school in the city, town or school district in the country in which he resides at least twelve weeks, if the public schools of such city, town or school district in the country so long continue, six weeks of which time shall be consecutive; and for every neglect of such duty, the party offending shall forfeit to the use of the Trustees

of such city, town or district a sum not exceeding twenty dollars; but if it appears, upon the inquiry of the Trustees, or upon the trial of any prosecution, that the party so neglecting was not able, by reason of poverty, to send such child to school, or to furnish him with the means of education, or that such child has been otherwise furnished with the means of education, for a like period of time, or has already acquired the branches of learning taught in the public schools, or that his bodily or mental condition has been such as to prevent his attendance at school, or application to study for the period required, the penalty before mentioned shall not be incurred.

91. The Trustees of the several School Districts shall inquire into all cases of the neglect of the duty prescribed by the preceding section, and ascertain from the persons neglecting, the reasons, if any, therefor, and shall forthwith prosecute any person liable for the penalty provided for in such section.

## STATUTES OF 1878.

### Earnings of Minors—Suits for Wages.

Chapter 12.—24. It shall be lawful for any minor to sue for and recover before any of the said Courts any sum not exceeding one hundred and fifty dollars, which may be due to him for wages or piece work, or work as a servant, in the same manner as if he were of full age; and the defendant may give evidence of any payments or set off against such demand, and the cause shall be adjudicated upon and judgment given and execution issued either in favour of defendant, or plaintiff in the same manner as if the plaintiff were of full age.

## STATUTES OF 1879.

### Mechanics' Liens.

Chapter 8.—1. This Act may be cited as "The Mechanics Lien Act."

2. In the construction of this Act (1) "Contractor" shall mean a person contracting with or employed directly by the owner for the doing of work, or placing or furnishing of machinery, or materials for any of the purposes mentioned in this Act; (2) "Sub-contractor" shall mean a person not contracting with, or employed directly by the owner, for the purposes aforesaid, but contracting with, or employed by the "Contractor," or under him by, another "Sub-contractor"; and (3) "Owner" shall extend to and include a person having any estate or interest, legal or equitable, in the lands upon, or in respect of, which the work is done, or materials or machinery are placed or furnished, at whose request, and upon whose credit or on whose behalf, or with whose privity or consent, or for whose direct benefit, any such work is done, or materials or machinery placed or furnished, and all persons claiming under him, whose rights are acquired after the work, in respect of which the lien is claimed is commenced, or the materials or machinery furnished have been commenced to be furnished.

3. Unless there is an express agreement to the contrary, every mechanic, machinist, builder, labourer, contractor or other person doing work upon, or furnishing materials to be used in the construction, alteration, or repair of any building or erection, or erecting, furnishing, or placing machinery of any kind in, upon, or in connection with any building or erection shall, by virtue of being so employed, or furnishing, have a lien or charge for the price of such work, machinery, or materials upon such building or erection, and the lands occupied thereby or enjoyed therewith, and limited in amount to such sum as is justly due to the person entitled to such lien.

4. A statement of claim in the form or to the effect in the Schedule to this Act, may be filed in the office of the Registrar of Deeds, before or during the progress of the work aforesaid, or within thirty days from the completion thereof, or from the supplying or placing of the machinery aforesaid; such statement of claim shall be verified by the affidavit of the person entitled thereto, to be sworn before any Commissioner for taking affidavits in the Supreme Court, or County Court, and shall state:

(a) The name and residence of the claimant, and of the owner of the property to be charged, and of the person for whom, and upon whose credit the work is done, or materials or machinery furnished, and the time or period within which the same was, or was to be done or furnished.

(b) The work done or materials or machinery furnished.

(c) The sum claimed as due or to become due.

(d) The description of the land to be charged. When such statement is so registered, the person entitled to such lien shall be deemed a purchaser *pro tanto*, and within the provisions of all Acts relating to the Registry of Deeds.



5. The Registrar, upon the payment of the fee of one dollar for the use of the Provincial Government, shall register such claim in a book to be kept for that purpose, so that the same may appear as an incumbrance against the land therein described, and such lien shall be discharged by the Registrar, on his receiving a certificate to that effect from the person entitled to said lien, and verified as required in cases of certificate of discharge of mortgage.

6. Every lien under this Act shall attach upon the estate and interest, legal or equitable, of the owner in the building or erection upon, or in respect of which the work is done, or the materials or machinery placed or furnished, and the land occupied thereby or enjoyed therewith, but the lien shall not in any case attach upon such estate and interest, so as to make the same or the owner thereof, liable to the payment of any greater sum than the sum payable by the owner to the Contractor, and in case the lien is claimed by a Sub-contractor, the amount which may be claimed, in respect thereof, shall be limited to the amount payable to the contractor, or sub-contractor (as the case may be) by whom the work has been done, or the materials or machinery have been furnished or placed.

(1) In cases where the estate or interest charged by said lien is leasehold, the fee simple may also, with the consent of the owner thereof, be subject to said charge, provided such consent is testified by the signature of such owner upon the statement of claim, at the time of the registering thereof, and duly verified.

7. In case the land upon, or in respect of which the work is done, or materials or machinery are placed, is encumbered by a mortgage, judgment, or other charge existing or created before the commencement of the work, or the placing of the materials or machinery upon the land, such mortgage or judgment, or other charge, shall have priority over the lien, and the provisions in this Act contained shall not effect such mortgage, judgment or other charge, or the rights and remedies of any party owning or having such mortgage, judgment or other charge.

8. All persons furnishing material to, or doing labour for, the person claiming a lien under this Act, in respect of the subject of such lien, who notify the owner of the premises sought to be effected thereby, within thirty days after such material is furnished, or labour performed, an unpaid account or demand against such lien holder, for such material or labour, shall be entitled to a charge therefor, *pro rata* upon any amount payable by such owner, under said lien, and if the owner thereupon pays the amount of such charge to the person furnishing material, and doing labour as aforesaid, such payment shall be deemed a satisfaction *pro tanto* of such lien.

9. In case of any dispute as to the validity, or amount of such unpaid account or demand, the same shall be first determined by suit in the proper court in that behalf, or by arbitration, under sections nineteen and twenty, at the option of the person having such unpaid account, or demand against the lien-holder, and during the pending of the proceedings to determine the dispute, so much of the amount of the lien, as is in question therein, may be withheld from the person claiming the lien.

10. In case the person primarily liable to the person entitled to the lien, fails to pay the amount awarded, within ten days after the award is made, the owner, contractor or sub-contractor, may pay the same out of any moneys due by him to the person primarily liable as aforesaid, on account of the work done or materials or machinery furnished, or placed, in respect of which the indebtedness arose, and such payment, if made after an award, shall in all cases, or if made without any arbitration having been previously had, or dispute existing, then if the indebtedness in fact existed, and to the extent thereof, operate as a discharge, *pro tanto*, of the moneys so due as aforesaid to the person primarily liable.

11. All payments, up to ninety per centum of the price to be paid for the work, machinery or materials, as defined by section three of this Act, made in good faith by the owner to the contractor, or by the contractor to the sub-contractor, or by one sub-contractor to another sub-contractor, before notice in writing by the person claiming the lien has been given to such owner, contractor, or sub-contractor (as the case may be) of the claim of such person, shall operate as a discharge, *pro tanto*, of the lien created by this Act; but this section shall not apply to any payment made for the purpose of defeating or impairing a claim to a lien existing or arising under this Act.

12. The said lien shall, in addition to all other rights or remedies given by this Act, also operate as a charge to the extent of ten per centum of the price to be paid as aforesaid, by such owner, up to ten days after completion of the work, in respect of which such lien exists, or of the delivery of the materials, and no longer, unless notice in writing be given as hereinbefore provided.

13. (1). When the amount of the claim, in respect of any lien, is within the jurisdiction of the County Court proceedings to recover the same, according to the procedure of the said court, by judgment and execution, may be taken in the County Court of the county in which the land charged is situate, or in the Supreme Court; or proceedings may be taken before any Judge of the said court, who may proceed in a summary manner by summons and order, and may take accounts, and make requisite



inquiries, and in default of payment, may direct the sale of the estate and interest charged at such time, as any judge of said court may think proper, and such further proceedings may be taken for the purpose aforesaid, as any judge of said court thinks proper in his discretion.

(2). Any conveyance under the seal of the Supreme Court shall be effectual to pass the estate or interest sold.

(3). The fees and costs in all proceedings taken under this section, shall be such as are payable in respect of the like or similar matters, according to the ordinary procedure of the said courts respectively.

14. In other cases the lien may be realized in the Court of Chancery, according to the ordinary procedure of that Court.

15. The said Judge or Court in his or its discretion may also direct the sale of any machinery and authorize its removal.

16. Any number of lien-holders may join in one suit, and all suits brought by a lien holder shall be taken to be brought on behalf of all the lien holders of the same class; and in the event of the death of the plaintiff therein, or his refusal or neglect to proceed therewith, may by leave of the court in which the suit is brought, on such terms as may be deemed just and reasonable, be prosecuted and continued by any other lien holder of the same class.

17. In the event of the death of a lien holder, his right of lien shall pass to his personal representatives, and the right of a lien holder may be assigned by an instrument in writing.

18. Where there are several liens, under this Act, against the same property, each class of the lien holders shall rank *pari passu* for their several amounts, and the proceeds at any sale shall be distributed amongst them *pro rata*, according to their several classes and rights, and they shall respectively be entitled to execution for any balance due to them respectively after said distribution.

19. In case a claim is made by a sub-contractor, in respect of a lien to which he is entitled, and dispute arises as to the amount due or payable in respect thereof, the same shall be settled by arbitration.

(1) One arbitrator shall be appointed by the person making the claim, one by the person against whom the claim may be made, and the third arbitrator shall be appointed by the two so chosen.

(2) The decision of the arbitrators or a majority of them shall be final and conclusive.

20. In case either of the parties, interested in any such dispute, refuses or neglects, within three days after notice in writing requiring him to do so, to appoint his arbitrator, or if the two arbitrators appointed fail to agree upon a third, the appointment may be made by the County Judge of the County in which the lands, in respect of which the lien is claimed, are situate, or by a Judge of the Supreme Court.

21. Every lien, which has not been duly registered under the provisions of sections four and five, shall absolutely cease to exist after the expiration of thirty days after the work has been completed, or materials or machinery furnished, unless, in the meantime, proceedings are instituted to realize the claim under the provisions of this Act, and a certificate thereof (which may be granted by the Judge or Court before whom, or in which, the proceedings are instituted) is duly registered in the Office of Registrar of Deeds.

22. Every lien, which has been duly registered under the provisions of sections four and five, shall absolutely cease to exist after the expiration of ninety days after the work has been completed, or materials or machinery furnished, or the expiry of the period of credit, unless in the meantime proceedings are instituted to realize the claim under the provisions of this Act, and a certificate thereof (which may be granted by the Judge or Court before whom or in which the proceedings are instituted) is duly registered in the Registrar of Deeds.

23. During the continuance of any lien, no portion of the property affected thereby, or the machinery therein, shall be removed to the prejudice of such lien, and any attempt at such removal may be restrained by application to the County Court, or the Judge thereof, or the Court of Chancery, or the Supreme Court, or a Judge thereof respectively, according to the Court in which the suit is instituted.

24. Upon application to the County Court, or the Judge thereof, or the Supreme Court, or a Judge thereof, in claims to be enforced in said Courts, and to the Court of Chancery in other cases, such Judge or Court may receive security, or payment into Court, in lieu of the amount of such claim, and may thereupon vacate the registry of such lien, or may annul the said registry upon any other ground.

25. In any of the said cases, the Court or Judge may proceed to hear and determine the matter of the said lien, and make such order as seems just, and in case the person claiming to be entitled to such a lien has wrongfully refused to sign a certificate of

discharge thereof, or without just cause, claims a larger sum to be due than is found by such Judge or Court, the Judge or Court may order and adjudge him to pay to the other party such costs as the Judge or Court may think fit to award.

26. Wherever any mechanic, artizan, machinist, builder, contractor or other person has furnished or procured any materials for use in the construction, alteration, or repair of any building or erection, at the request of any, and for some other person such materials shall not be subject to execution or other process to enforce any debt, other than for the purchase thereof due by the person furnishing or procuring such materials, and whether the same have or have not been in whole or in part worked into or made part of such building or erection.

27. Where there is an express agreement between the owner and the contractor, that a certain contract for the erection or repair of any buildings, or for the furnishing of any machinery or materials to be used in the construction, alteration or repair of any building, is not to be affected by any lien under this Act, no provision in this Act shall apply or give a lien to such owner, contractor, sub-contractor, mechanic, labourer or furnisher of machinery, or materials, in connection with such building.

28. Except so far as is herein otherwise provided, the provisions of the Acts relating to the Registry of Deeds shall not apply to any lien arising under the provisions of this Act.

29. Nothing in this Act shall be held to debar any person from pursuing any common law remedy that he had before the passing of this Act to recover any claim arising under this Act.

#### STATUTES OF 1881.

##### Exemption of Wages from Garnishment.

Chapter 4.—32. Wages due, or accruing due, to any debtor for his personal labour and service on a hiring to the extent of one-half part of such wages, shall be exempt from garnishment.

#### STATUTES OF 1882.

##### Mechanics' Liens.

Chapter 11.—1. After any lien shall have been duly registered according to the provisions of section four, sub-section (a.b.c.d.) of the said "The Mechanics' Lien Act," [1879, chapter 8], it shall be lawful for the person or persons registering such lien to obtain from a judge of the Supreme Court, or County Court, as the case may be, a rule or summons calling upon the debtor or debtors, person or persons, against whom the Lien is registered, to appear before such judge to be examined on oath, touching the particulars of the claim of the person or persons registering such lien, and generally as to the particulars of the debt for which such lien was registered: provided always that no such order or summons shall be grantable, or obtainable, until the expiring of the period of credit, which may have been given by the person or persons registering such lien to the person or persons against whom such lien is claimed, and for which such lien was registered.

2. Such summons or order shall contain the statement of the time when such lien was registered, and the book and folio of the registry book in which the same is registered, and shall be signed by the judge granting the same, and shall command or summon the person or persons against whom the lien is claimed, to appear before such judge ten days after the service of the said summons upon him or them, to be examined on oath touching the said lien, and generally as to the particulars of the debt for which the lien was registered.

3. The said order or summons shall be served in the same manner as writs of summons are now served in the Supreme Court or County Court, as the case may be, and the same proof of service, and the same practice as far as practicable, shall apply, and be applicable, to the service of any order or summons under this Act.

4. Upon the return of any such order or summons, in case the debtor does not deny on oath the amount due, and for which such lien was registered, or in case the debtor refuses or neglects to attend upon due proof of the service of the said summons, it shall be lawful for a judge of the Supreme Court or County Court, as the case may be, to order that the whole, or any part of the premises, land, estate, or interest, machinery or material, charged by such lien, shall be sold by public auction either together, or in parcels, as the said judge shall deem most expedient to satisfy such lien: provided always that before any sale shall take place under such last mentioned order, the order of the said judge directing such sale shall be advertised at least one month in some paper or papers, newspaper or newspapers, published in the Island, to be named by such judge, and it shall be lawful for such judge to regulate and direct the terms, man-

ner, and place of any such sale or sales, and as to such judge shall seem best and most expedient, and to impose such conditions or restrictions as he shall deem meet, and the circumstances of the case require.

5. After any sale duly made in accordance with the foregoing provisions shall have taken place, a deed or deeds, or, in the case of personal property, an absolute bill of sale, reciting the judge's order for sale, and the sale thereunder, under the seal of the Supreme Court or County Court, as the case may be, signed by the Prothonotary of the Supreme Court, or in the County Court by a judge thereof, shall operate as an absolute conveyance or assignment of the estate or interest of the person, against whom such lien has been registered, in the property, real or personal as the case may be, conveyed or assigned by such deed or bill or sale, and which was chargeable by such lien to the person or persons in whose favour the same is executed.

6. Any person or persons interested in the premises charged by the lien, or who may have any claim against the person or persons against whom the lien is registered, may, at any time before the said deed or bill of sale is actually delivered to the purchaser or purchasers, apply to any Judge of the Supreme Court or County Court, as the case may be, to have any proceedings taken under this Act stayed, and, if the Judge shall think fit, set aside on the ground of any fraud or improper collusion between the person or persons registering such lien, and the person or persons to whom such lien is registered, or any of the parties thereto, and such Judge shall have power to make such order or orders in the matter as to him shall seem proper, or the justice of the case shall require.

7. In case any person or persons, against whom any lien is registered as aforesaid, shall attend upon the return of the order or summons mentioned in first section hereof, and deny certain portions of the claim, and admit others, it shall be lawful for the Judge, if he shall think fit, to order a sale of a sufficient portion of the premises or property charged, to satisfy the claim so admitted, and the person or persons, having or claiming such lien, shall proceed to enforce the lien as to the balance under the other provisions contained in the said "The Mechanics Lien Act," and such parcel sale shall in no way prejudice or affect his lien, or the balance not admitted, or his right to recover and enforce the same under any of the other provisions and powers of the said "The Mechanics Lien Act," and the like procedure and practice shall be followed and taken, in making any such parcel sale, as would be taken if such sale were of the entire property charged by such lien, under the previous sections hereof.

8. When the sum realized by any such sale, or parcel sale as aforesaid, shall be more than sufficient to satisfy the said lien, or the amount admitted to be due in case of a partial sale, and the costs and charges necessarily increased in obtaining same and of such sale, the surplus shall be paid into the Supreme Court or County Court, as the case may be, and such surplus, or any part thereof, shall be paid out by an order of such Court or Judge to such person or persons as such Court or Judge shall consider legally entitled to the same, and upon any application therefor such Court or Judge shall consider legally entitled to the same, and upon any application therefor such Court, or a Judge, shall have power to make any and such order or orders respecting the same, and upon any and such terms as may be deemed necessary or expedient or that justice may require, and notice of any sale or order, in any such application, may be given in such manner, and for such time, as such Court or a Judge shall deem proper: provided always that no such surplus, or any part thereof, shall be paid out by order of such Court or Judge, in case of any partial sale as aforesaid, until the person or persons claiming the lien, under which such partial sale shall have taken place, shall have abandoned or substantiated his or their right to a lien for the balance, not admitted to be due as aforesaid, by action as provided by the provisions of the said "The Mechanics Lien Act."

9. Any sale to be made under the provisions of this Act, shall be made by the Sheriff of the County in which the land premises or property, to be sold, are situated: provided always that it shall be lawful for a Judge of the Supreme Court or County Courts, as the case may be, to order that the same shall take place in any other County, if he shall deem it expedient or advantageous.

10. It shall be lawful for any person or persons claiming any such lien, duly registered before or after the passing of this Act, notwithstanding he may have commenced proceedings in the Supreme Court, or County Court, for the recovery of such lien under the said "The Mechanics' Lien Act," to suspend and abandon such proceedings, and to proceed, in lieu thereof, under the provisions of this Act, without prejudice to his lien, or his right to recover the same, and no lien, registered subsequently to his or theirs, shall gain any priority by reason merely of such proceedings having been suspended or abandoned by him or them.

11. This Act shall not be construed to revive liens, registered under the Act hereby amended, that have lapsed before the passing of this Act.

## STATUTES OF 1898.

**Wages as Preferred Claims—In Assignments.**

Chapter 4.—8. (1) Whenever an assignment is made of any real or personal property for the general benefit of creditors under the provisions of this Act, the assignee shall pay in priority to the claims of the ordinary or general creditors of the person at the time of making the same, the wages or salaries of all persons in the employment of such person at the time of making such assignment, or within one month before the making thereof, not exceeding three months' wages or salary; and such person shall be entitled to rank as ordinary or general creditors for the residue, if any, of their claim.

## STATUTES OF 1903.

**Earnings of Married Women.**

Chapter 9.—4. (1) Every married woman whether married before or after the passing of this Act, shall be entitled to have and to hold, and to dispose of as her separate property, as if she were a *femme sole*, the wages, earnings, money, and property gained or acquired by her in any employment, trade or occupation in which she is engaged or which she carries on, and in which her husband has no proprietary interest, or gained or acquired by the exercise of any literary, artistic or scientific skill.

(2) Every married woman whether married before or after the passing of this Act, shall be entitled to have and to hold and to dispose of in manner aforesaid, as her separate property, all real and personal property acquired by her or devolving upon her to which her title shall accrue, after the passing of this Act.

## STATUTES OF 1906.

**Charlottetown Street Railways—Qualifications of Employees, etc.**

Chapter 30.—34. No person shall drive any car unless he shall be of the full age of twenty-one years, or unless he shall have obtained written permission from the mayor of the city for such purpose; every conductor, driver or motorman, shall wear a badge bearing his number on a conspicuous portion of his dress. The company when required to do so by the mayor and city council, shall furnish a list of all its conductors, drivers and motormen, and the name of any one of them conducting or driving a car at a specified time; and shall keep such register, books and records as shall enable it to furnish such information.

35. The front end of each car while in motion on the street, shall be provided with a bright light, between dusk in the afternoon and day-light, each car shall also be provided with a loud clear-sounding gong which shall be rung before passing a crossing, or when any person or vehicle is in the way of such car, and each car shall be equipped with efficient brakes.

37. Where no other remedy is provided, any conductor or motorman violating any of the above provisions shall be subject to a penalty not exceeding twenty dollars (\$20) to be recovered before the stipendiary magistrate of the city of Charlottetown or of Queen's County as the case may be, and in default of payment to imprisonment in the Queen's County jail for a period not exceeding twenty days.

## STATUTES OF 1913.

**Registration and Licensing of Chauffeurs.**

Chapter 7.—16. Every person hereafter desirous to operate a motor vehicle as a chauffeur shall file in the office of the secretary on a blank to be supplied by such secretary a statement which shall include the name and address and the trade name and motor power of the motor vehicle or vehicles he is able to operate; and shall pay a registration fee of two dollars and in addition as provided in section 20.

17. Before a license is granted, the applicant shall furnish testimonials as to his character and sobriety to the secretary and no license shall be issued until the secretary is satisfied that the applicant is a proper person to receive it. No operator's license shall be issued to any person under eighteen years of age.

(2) The secretary shall thereupon file such statement in his office, register such chauffeur in a book or index to be kept for that purpose and assign him a number.

(3) The secretary shall forthwith upon such registration, deliver to such chauffeur a badge of aluminium or other suitable metal which shall be oval in form and the greater diameter of which shall not be more than three inches, and such badge shall have stamped thereon the words "Registered Chauffeur No. \_\_\_\_\_" with the registration number inserted therein which badge shall thereafter be worn by such chauffeur pinned upon his clothing in a conspicuous place at all times while he is operating a motor vehicle upon the public highways.

(4) No chauffeur having registered as hereinbefore provided shall voluntarily permit any other person to wear his badge, nor shall any person while operating a motor vehicle wear any badge belonging to another person or a fictitious badge.

(5) No person shall operate a motor vehicle as a chauffeur upon the public highways unless such person shall have complied with the requirements of this section and sections 16 and 17.

20. No chauffeur shall drive a motor vehicle unless he shall have paid to the secretary in addition to the registration fee required under this law an annual fee of two dollars.

(1) The secretary shall give to each chauffeur a receipt for his yearly tax which receipt is to contain the race, age, height, weight, colour of eyes and hair of chauffeur and to be carried on the person of the chauffeur and produced upon demand.

## STATUTES OF 1915.

### Wages as Preferred Claims—In Liquidations.

Chapter 14.—197. (1) In a winding-up there shall be paid in priority to all other debts,—

(a) All assessed taxes, rates, land tax, personal property tax or income tax, assessed on the company up to the first day of January next before the date hereinafter mentioned, and not exceeding in the whole one year's assessment; and

(b) All wages or salary of any clerk or servant in respect of services rendered to the company during four months before the said date, not exceeding two hundred and fifty dollars; and

(c) All wages of any workman or labourer not exceeding one hundred and twenty-five dollars, whether payable for time or for piece work, in respect of services rendered to the company during two months before the said date: Provided that where any labourer in husbandry has entered into a contract for the payment of a portion of his wages in a lump sum at the end of the year of hiring, he shall have priority in respect of the whole of such sum, or a part thereof as the court may decide to be due under the contract, and proportionate to the time of service up to the said date:

(2) The foregoing debts shall—

(a) Rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportion; and

(b) In so far as the assets of the company available for payment of general creditors are insufficient to meet them have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(3) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding-up the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.

(4) In the event of the landlord or other person distraining or having distrained on any goods or effects of the company within three months next before the date of a winding-up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof: Provided that in respect of any money paid under any such charge the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(5) The date hereinbefore in this section referred to is—

(a) In the case of a company ordered to be wound-up compulsorily which had not previously commenced to be wound-up voluntarily, the date of the winding-up order; and

(b) In any other case, the date of the commencement of the winding-up.

## NOVA SCOTIA.

## REVISED STATUTES OF 1900.

## Industrial Disputes in Coal Mines—Arbitration and Conciliation.

Chapter 21 with amendments.—1. This Chapter may be cited as "The Miners' Arbitration Act."

## Interpretation.

2. In this Chapter, unless the context otherwise requires, the following expressions, shall be construed in the manner in this section mentioned:

(a) "employer" means the person, firm or corporation working any coal mine and employing persons in or about the same or in connection therewith;

(b) "employed" means the persons employed in or about a coal mine or in connection therewith, who, for the purposes of this Chapter, are divided into three divisions as follows:—(1.) the persons who labour above ground at or about the mine; (2.) the persons who labour on or about the wharves, or in trimming coal loaded into vessels at the wharves; (3.) the persons who labour below ground;

(c) "any division" means all the persons in any one of such divisions so employed;

(d) "Commissioner" means the Commissioner of Public Works and Mines;

(e) "the board" means the Board of Arbitration appointed under this Chapter.

## Complaint to Commissioner.

3. Where any dispute arises between the employer and the majority of the employed, or the majority of any division, in respect to wages, the employed shall not strike or abandon work, and the employer shall not reduce the wages, dismiss or lock out the employed or any division, if the employer or the majority of the employed, or the majority of any division, makes complaint in regard to the matter causing such dispute in writing to the Commissioner, until such matter is finally determined as in this Chapter provided.

4. A certificate under the hand of the chairman and secretary of a meeting, duly called, that a majority of the employed, or of any division attending such meeting, was in favour of arbitration under this Chapter of any such dispute, shall be sufficient complaint to the Commissioner.

5. The Commissioner upon receipt of such certificate or upon receipt of complaint from the employer, may summon the agent of the employed, or of the division, or of the employer making such complaint, to appear before him and adduce evidence in support of such complaint, and upon such evidence the Commissioner shall determine whether such matter of dispute should be referred to arbitration or not.

5a. In the case of an employer operating more than one coal mine the employer or the employed may, in the complaint to the commissioner, designate the mine or mines in relation to which the complaint is made, and any proceedings under the chapter taken in consequence of such complaint shall have relation only to the mine or mines so designated. 1901, c. 30, s. 1.

## Reference.

6. If the Commissioner determines that the matter complained of should be submitted to arbitration, he shall forthwith make an order referring such matter to the board; if he determines otherwise such matter shall be deemed to be finally determined against the party who made the complaint.

7. When the employer and a majority of the employed, or of any division, apply jointly in writing to the Commissioner to settle any such dispute by arbitration, the Commissioner shall forthwith refer the matter to the board.

## Board of Arbitrators.

8. (1) The board shall consist of five persons, two of whom shall be appointed by the Governor-in-Council, one by the agent of the employer who is a party to such dispute, one by the agent of the employed or division who are the other party to such dispute, and one by the persons appointed by such agents.



(2.) If such agents or either of them do not within five days after notice from the Commissioner of the reference to the board of the matter of dispute, or if such persons so appointed do not within five days after their appointment, make the appointment required by this section to be made by them, any such appointment may be made by a judge of the Supreme Court on application of the Commissioner.

9. The board shall hear and determine all matters of dispute referred to it by the Commissioner.

10. The board may compel the attendance before it of witnesses by subpoena under the hand and seal of the chairman, and may require witnesses to give evidence under oath and to produce such documents and things as the board deems necessary. The chairman may administer oaths to witnesses.

11. (1) The board may appoint a secretary, who may be a member of the board, and such other officers as are necessary for the purposes of the arbitration.

(2.) The secretary of the board shall keep a complete record of all proceedings before the board, and shall file with the prothonotary of the Supreme Court for the county in which the dispute arises, a copy of the complaint lodged with the Commissioner and a copy of the award of the board.

(3.) The books, records, accounts and papers of the board shall at all times be open to the inspection of the Commissioner, and of any person appointed by him for such purpose.

12. The arbitrators, before entering upon any of their duties as such board, in any case of dispute, shall be sworn before a justice of the peace to the faithful performance of their duty, and that they will not divulge any matter of the employer's business.

13. The board shall meet to hear and determine any dispute referred to it at such time as it appoints, and at some place as near as conveniently may be to the mine of the employer at which or in connection with which the employed or division is employed.

14. (1) For the purposes of the arbitration the books and accounts of the employer shall be open to the examination of any person appointed for the purpose by the board.

(2.) The person so appointed shall not in any way be interested in, or in the employment of, any other company carrying on a similar business to that concerning which the investigation is held.

(3.) Such person shall obtain for and furnish to the board such information respecting the affairs of the mine as the board requires.

(4.) The chairman of the board shall administer to such person as soon as appointed an oath not to divulge, save to the board, any matter of the employer's business.

15. Each member of the board shall be entitled to receive a sum not exceeding six dollars per day for every day he is employed on an arbitration, and his travelling expenses in addition, and such sums shall form part of the costs of arbitration.

#### Award.

16. Every award shall be in writing, signed by a majority of the members of the board, and shall be filed in the office of the Commissioner.

17. The Commissioner shall cause the parties to the arbitration to be notified of the award immediately after the same is filed in his office.

18. The chairman of the board shall, within twenty days after an award has been made by the board, make a report in writing to the Commissioner, setting forth the operations of the board, which report shall be laid before the Legislature.

19. The award, when filed with the prothonotary, may, on motion of either party, be made an order of the Supreme Court, and the said court may enforce obedience to such award by attachment, or if the award directs payment of a sum of money by ordering judgment to be entered or execution to issue for such sum, with costs.

20. Such judgment, when registered in the registry of deeds for any registration district, shall bind the land of the employer in such district, but no such judgment shall have priority over any amount due to Her Majesty in respect to royalties, or over any bona fide mortgage or judgment previously registered.

21. (1) The board may appoint a committee of three of its number, two of whom shall be the arbitrators appointed by the agents in default of such appointment, or by the judge, to examine into any question in dispute that is referred to them by the board, and such committee may hear and determine such dispute, and their decision in regard thereto, if agreed to and signed by the three members of such committee, shall be deemed an award of the board, and shall when filed in the office of the Commissioner be final.

(2.) Such committee shall for the purposes of summoning witnesses and taking evidence have all the powers by this Chapter conferred upon the board.

#### Costs and Security.

22. The employer on receiving notice that an arbitration has been granted may withhold the wages of the employed or division to whom arbitration has been granted



in a sum not exceeding three dollars for each employee, and shall pay into some chartered bank in the province to the credit of the Commissioner a sum of money equal to double the sum so withheld. 1901, c. 29, s. 1.

23. If the board decides against the employer he shall be bound thereby, and if he does not submit at once to the award, the sum paid into the chartered bank to the credit of the Commissioner shall be forfeited by the employer, and shall, after first deducting the costs of the arbitration, be paid to the agent of the employed or division for the use and benefit of the employed or division in proportion to their respective rates of wages.

24. If the board decides against the employed, or against the division, and the employed, or any division to whom arbitration has been granted, does not at once submit to the award, the amount of wages of the employed or division paid into the chartered bank shall be forfeited by the employed or by the division and shall be paid to the agent of the employer, for his use and benefit by the Commissioner, after first deducting the costs of the arbitration.

25. The Commissioner shall pay the costs of arbitration out of the sum paid to his credit by the employer, and if the award directs that costs be paid by the employed or division, the amount of costs so paid by the Commissioner shall be deemed payment of wages by the employer to the employed or division.

#### Procedure.

26. A meeting of the employed or of any division shall be duly called if notice calling the same is given by not less than five of the employed or of any division stating that a meeting of the employed or of any division for the purposes of "The Miners' Arbitration Act," is to be held, by posting such notice in three public places at or about the mine for three days before such meeting.

27. (1) When the employed or any division makes complaint to the Commissioner, or is party to an arbitration, the employed or such division shall give notice to the Commissioner of the name and address of some person appointed, at a meeting, duly called, of the employed or of such division, as agent.

(2) Service upon such agent of all papers, notices or process shall be deemed service upon the employed or such division.

28. If before the appointment of such agent the Commissioner desires to serve any summons or notice on the employed or on any division, the same shall be deemed sufficiently served on the employed or division if posted up at any of the principal entrances of the mine at which they are employed.

29. (1) Every employer shall file at the office of the Commissioner a writing signed by or on behalf of the employer, giving the name of some person regularly engaged at the mine of the employer, authorized to act as agent of the employer, and service of all papers, notices or process upon such agent shall be deemed service upon such employer.

(2) Any request, notice or communication in relation to the affairs of the mine made or given by such agent shall be deemed to be made or given by the employer.

(3) If such writing is not filed as by this section required, any paper, notice or process mailed duly registered and addressed to the employer at the chief place of business of the employer within the province, shall be deemed to be duly served upon such employer.

(4) Every employer who fails to file such writing with the Commissioner within thirty days after notice from the Commissioner requiring him to do so, shall be liable to a penalty of one hundred dollars.

30. No complaint, award or other proceeding under this Chapter shall be removed by *certiorari* into any of Her Majesty's courts of record.

31. (1) There shall be an appeal from any award of the Board to the Supreme Court *in banco*.

(2) Notice of appeal shall be given within ten days after the award is filed in the office of the Commissioner, and after such notice is given such appeal shall be subject to all the rules of the Supreme Court which are applicable to appeals from the decision of a judge of the Supreme Court.

(3) The notice of appeal shall state whether the whole or part only of the award of the board is complained of, and in the latter case shall specify such part.

32. The Governor-in-Council may make rules and regulations not inconsistent with the laws of the province for the government of the board.

#### Miners' Relief Societies.

[Chapter 23 and all amendments thereto are replaced by chapter 187, 1917.]

### Sunday Street Cars.

[Chapter 70, section 134, with amendment of 1907, authorizes municipal councils to pass by-laws on various subjects, among which is the following:—]

(45) Preventing the profanation of the Sabbath; and regulating the running of street cars on Sabbath. 1907, c. 47, s. 1.

[Chapter 71, section 263, as amended by 1907, chapter 56, section 1, confers similar authority upon town councils.]

### Prison Labour.

Chapter 75.—18. (1) The Governor in Council may from time to time make regulations directing or authorizing the employment upon any work or duty beyond or in the limits of any common jail of any prisoner who is sentenced to be imprisoned with hard labour in such jail, or who is therein confined for the breach of any law of Canada or of the province of Nova Scotia, or of any by-law of any municipal corporation in the province.

### Fire Prevention—Regulation of Explosives.

[Chapter 89, "Of Fires and Firewards," provides for the appointment of firewards annually by every municipal council. It is their duty to endeavour to extinguish and prevent the spreading of any fire which breaks out in their respective districts. The firewards are empowered to nominate and license chimney sweepers, and to make regulations respecting the sweeping of chimneys. Their powers respecting the storing of inflammable materials are set forth in the Act as follows:—]

23. (1) If any two firewards consider it proper to inspect the placing or situation of any inflammable materials they may demand admittance into any building or place for that purpose; and if they deem the same dangerous they shall direct the occupant of the building or place to remove such materials or alter the placing thereof; and if he neglects to obey them, they may make the removal or alteration at his expense.

(2) Every person who refuses admission to the firewards while acting under this section, or who does not carry out their orders, shall be liable to a penalty of eight dollars, in addition to the expense of carrying out the directions of the firewards; and in default of payment to imprisonment for a period not exceeding ten days.

24. (1) No person shall keep at any one time in any one place within the limits of the firewards, or in any vessel or boat for more than twelve hours after she has reached any wharf within the limits, more than twenty-five pounds of gunpowder; and every person who violates the provisions of this section shall be liable to a penalty of one dollar for every pound of such gunpowder over twenty-five pounds.

(2) The provisions of this section shall not extend to any vessel or boat belonging to Her Majesty in which gunpowder is kept for public purposes.

(3) All prosecutions under this section shall be commenced within three months after the offence was committed.

25. (1) Any justice of the peace, upon complaint on oath by a fireward or other person, that he has reasonable cause to suspect that dangerous quantities of gunpowder are kept in any place contrary to the provisions of the next preceding section, may issue his warrant to search therefor in the day time.

(2) If admittance under the warrant is refused, and such refusal is made to appear on oath, the justice may grant a further warrant to break open the place in which such gunpowder is supposed to be kept; and if upon any search a greater quantity than twenty-five pounds of gunpowder is found, the fireward may seize and sell such excess at public auction, and the proceeds shall be applied for the purposes of this chapter.

[It is further provided in the Act, as amended by Chapter 49, 1906, and by Chapter 41, 1907, that when any fire occurs whose cause is unknown, upon receipt of a written request from any board of trade, or from the Nova Scotia Board of Fire Underwriters, or from any person or corporation who has insured the building, the mayor in any city or town or any justice of the peace in any other part of the province may cause an investigation to be held.

Such investigation is to be conducted by a judge of the county court or the stipendiary magistrate in any city, by the stipendiary magistrate or any two councillors in any incorporated town, and by any one or more justices of the peace in other places. The officials holding the investigation are given power to enforce the attendance of witnesses and to compel such witnesses to give evidence.]

### Fire Escapes on Factories.

Chapter 90.—8. Every board [of fire escapes] shall examine all buildings within its jurisdiction which it considers dangerous and not constructed so as to afford ready

egress to the inmates in case of fire, and it may order the erection and maintenance of strong and suitable fire escapes on, in and from all buildings where it deems the same necessary. It shall revisit such buildings as often as it deems necessary to see that its orders are carried out and the fire escapes efficiently and properly maintained, and shall meet at regular intervals for the transaction of business.

9. Every board shall pay particular attention to all . . . . . factories . . . . . and other buildings within its jurisdiction in which an unusual number of persons work, congregate or reside; and it shall have power to order the enlargement or alteration of the doors, passage ways, stair cases and windows in any such building in such manner as it deems best for the protection of the inmates, and so as to afford a ready means of escape in case of fire or panic.

10. The board may order the alteration of any fire place, chimney, furnace, heating apparatus or pipe for the conveyance of smoke or heated air, when it considers the same dangerous.

11. The board or any of its members may enter in and upon any building or premises within its jurisdiction at all reasonable hours for the performance of its duties, and remain there as long as is necessary to make a thorough examination of the building and its surroundings.

12. The positions of the fire escapes and the way of access to them from the inside of the buildings shall, if required by the board, be indicated by printed notices and coloured lights, or in such other way as the board directs.

13. All fire escapes erected under the provisions of this Chapter, shall always be well painted and maintained in good order, to the satisfaction of the board.

14. The owner of any building in which any fire escape is ordered to be erected or maintained, or any alteration of any door, passage, staircase or window is ordered to be made, shall be notified thereof in writing signed by the chairman of the board or any two of its members; and the mailing of such notices addressed to the owner or his agent, if any, within the district, and leaving a copy thereof on the premises in which the erection, maintenance or alteration is ordered to be made, shall be a sufficient notice to the owner thereof and his agent.

15. No order or direction of the board shall be deemed to have been executed until it has been certified in writing by the chairman or two members of the board that such order or direction has been complied with to the satisfaction of the board.

16. (1) If the owner of a building or his agent who has been required to erect a fire escape or escapes, or to make alterations in his building, differs from the board in opinion as to the necessity for any such fire escape or alteration, or as to the number, kind, size or position of the fire escapes ordered, he shall, on giving written notice to the board, be entitled to be heard before it on a day to be fixed by the board, and may produce witnesses, who shall be examined under oath; and the board shall reconsider the matter, and after hearing such owner or agent and his witnesses make a decision thereon.

(2.) Every such decision shall be subject to appeal to arbitrators, one to be chosen by the owner or agent, one by the board, and a third by the two so chosen; and the award of a majority of such arbitrators shall be final.

17. (1) The fees to be paid to the arbitrators on any such appeal shall be such as are fixed by the council of the city, incorporated town or municipality, as the case may be, and such council is hereby empowered to fix the same.

(2.) If the decision of the arbitrators is favourable to the person appealing, the fees shall be paid by such city, town or municipality, to be borne in the case of a municipality by the district. If the decision is against the person appealing, such person shall pay the arbitrators' fees.

#### Penalties.

20. (1.) Every owner of any building within the jurisdiction of any board or agent of such owner, who, after receiving sixty days' notice thereof in writing, refuses or neglects to obey and perform any order of the board made under the provisions of this Chapter, or otherwise violates the provisions thereof, and every person who in any wise obstructs or hinders any board or any of its members in the performance of their duties, or refuses them access to any building within their jurisdiction contrary to the provisions of this chapter, shall be liable to a penalty of not less than twenty dollars nor more than one hundred dollars.

(2.) In cases of non-compliance with the orders of the board, every week that elapses after the expiration of the sixty days' notice until the order is fully complied with and a certificate obtained as in this chapter provided, shall constitute a separate offence.

21. If the building is owned by more than one person, any one or more of its owners shall be liable for all violations of this Chapter in respect thereto; and any penalties may be recovered against them, or any of them individually, without joining the other

owners: Provided that no more than one prosecution shall be instituted for the same penalty.

22. Every prosecution against any owner or agent for any offence under the provisions of this Chapter shall be at the instance of the board for the city, town or village in which the offence was committed, and any penalty recovered on any such prosecution shall be paid to the treasurer of the city, town, or municipality in which the board at whose instance the same was recovered has jurisdiction, and shall form part of the general funds of such city, town or municipality respectively.

(2.) In the case of municipalities any moneys so paid shall be credited to the district.

23. In default of payment of any penalty imposed in a prosecution in respect to an offence against any of the provisions of this Chapter, the person upon whom the same is imposed shall be liable to be imprisoned for one day for each dollar of the amount of the penalty and costs which remains unpaid.

### Regulation of Use, Storage and Transportation of Explosives.

Chapter 94.—1. (1.) The following regulations shall prevail with respect to the transportation of gunpowder by land:—

(a) No person shall convey by land more than one ton of gunpowder at one time;  
(b) More than fifty pounds of gunpowder shall not be placed in any one carriage to be land-borne unless the same is completely covered with woollen or hair cloth, exclusive of the package and the covering of the carriage;

(c) No carriage conveying gunpowder shall be stopped less than twenty rods from any dwelling house;

(d) No iron, steel or metallic substance, other than copper hoops on the casks, shall be placed on any carriage together with any quantity of gunpowder exceeding fifty pounds;

(e) No gunpowder exceeding fifty pounds shall be placed in any carriage, except in barrels, half barrels or quarter barrels, tight and well hooped with wood or copper hoops;

(f) No more than twenty-five pounds of gunpowder shall be carried from one place to another unless the package is well hooped and sufficiently wrapped with woollen or hair cloth.

(2.) Every person who contravenes or fails to comply with any of the provisions of this section shall be liable to a penalty not exceeding eighty dollars.

(3.) Nothing in this section contained shall affect the carriage of gunpowder for Her Majesty's service.

2. (1.) Every person who blasts rocks with gunpowder, dynamite or other explosive, in any place within one hundred feet from any street, highway or thoroughfare, shall use the most careful precautions in giving notice thereof by blowing horns or otherwise, previously to each explosion, and shall not explode more than three bores at one time, and shall cover the spot about to be blasted with a sufficient quantity of bushes, timber, earth, stones or other materials to deaden the force of the explosion.

(2.) Every proprietor, contractor, builder, workman or labourer concerned in any such blasting who contravenes or fails to comply with any of the provisions of this section, shall be liable to a penalty of not less than two dollars and not more than twenty dollars, and in default of payment to imprisonment for a term not exceeding one day for every dollar of such penalty; and every person concerned in so blasting without proper precautions, shall be responsible in damages to any person who is injured thereby.

3. Gunpowder kept for purpose of sale by retail shall be kept in a metallic case painted red, with the word "gunpowder" distinctly marked on each side thereof, and such case shall be placed in a conspicuous position in a window in the front part of the shop, convenient for removal in the event of danger from fire.

4. The city council of the city of Halifax, the town council of every incorporated town, and the municipal council of every municipality, shall respectively have power to make, and from time to time amend and repeal, all such by-laws, ordinances and regulations as they deem necessary for the protection of the public within such city, town or municipality, from accidents or danger from the careless use of gunpowder, dynamite and other explosives, and with reference to the storing, transportation and use of all such explosives, and to ordain that any offender against any such by-law, ordinance or regulation shall be punished by penalty or imprisonment, or by both penalty and imprisonment, in such amount and for such period respectively as they respectively ordain; provided that no such penalty shall exceed forty dollars, and no such imprisonment shall exceed three months, and that no such by-law, ordinance or regulation shall be inconsistent with anything in this Chapter contained.

5. (1) No person shall keep at any one time in any one place within the limits of any district for which firewards are appointed under the chapter "Of Fires and Fire-

wards," or in any vessel or boat for more than twelve hours after she has reached any wharf within such limits, more than twenty-five pounds of gunpowder.

(2) Every person who violates the provisions of this section shall be liable to a penalty of one dollar for every pound of gunpowder over twenty-five pounds, to be recovered on a prosecution instituted by the fire wards, or any of them.

(3) Nothing in this section shall apply to any gunpowder stored in any place or vessel for the use of Her Majesty.

6. (1) Any justice of the peace upon complaint on oath by a fireward that he has reasonable cause to suspect that dangerous quantities of gunpowder are kept in any place contrary to the provisions of the next preceding section, may issue his warrant to search therefor in the day time; and if admittance under the warrant is refused, and such refusal is made to appear on oath, the justice may grant a further warrant to break open the place where such gunpowder is supposed to be kept.

(2) If upon any such search a greater quantity than twenty-five pounds of gunpowder is found, the fireward may seize and sell such excess at public auction, and the proceeds shall be applied for the purposes of the Chapter "Of Fires and Firewards."

#### Railways—Definition of Terms.

Chapter 99.—2. In this Chapter and in the special Act incorporating any railway company to which this Chapter or any part thereof applies, unless the context otherwise requires:—

(a.) The expression "Special Act" means any Act under which the company has authority to construct or operate a railway, or which is enacted with special reference to such railway, and includes all such Acts;

(b.) The expression "company" means a railway company and includes any person having authority to construct or operate a railway;

(j.) The expression "highway" includes any public road, street, lane or other public way or communication;

(k.) The expression "Commissioner" means the Commissioner of Public Works and Mines;

(q.) The expression "railway" means any railway which the company has authority to construct or operate, and includes all stations, depots, wharves, rolling stock, equipment, property, and works connected therewith, and also any railway bridge or other structure which the company is authorized to construct under a special Act;

(r.) The expression "railway company" or "company" includes any person being the owner or lessee of or a contractor working, any railway constructed or carried on under the powers of any statute of the province;

#### Railways—Application of Act.

Chapter 99.—3. The provisions of this Chapter shall apply to every railway constructed and in operation or hereafter to be constructed under the authority of any Act passed by the legislature of Nova Scotia, and shall in so far as they are applicable to the undertaking, and unless they are expressly varied or excepted therefrom by the special Act, be incorporated with the special Act, form part thereof, and be construed therewith as forming one Act.

4. For the purpose of excepting from incorporation with the special Act any of the sections of this Chapter, it shall be sufficient in the special Act to enact that the provisions of this Chapter proposed to be excepted, referring to them by the words forming the headings or numbers of such section or subsection, as the case may be, respectively, shall not be incorporated with such Act, and the special Act shall thereupon be construed accordingly.

5. (1.) If in any special Act it is provided that any provision of any general

(2.) No special contract or obligation of any company or contractor to complete lines of railway now under construction shall be nullified or varied thereby, and all such contracts and enactments relating thereto, shall remain in full force until such line is completed, and a certificate to that effect is given by the Provincial Engineer, under the authority of the Commissioner. All obligations of such companies or contractors in relation to the operation of such lines of railway now under construction, and all enactments respecting the same after completion, shall remain in full force, and all conditions and specifications shall be fully carried out, as well as the provisions of this Chapter wherein additional restrictions are provided.

6. If in any special Act heretofore passed and under which a company has been organized for the construction of any railway, it is provided that any matter respecting the organization or administration of such company dealt with by this Chapter might be regulated by such company by by-law, and the same has been so dealt with by any such company, the provisions of this Chapter shall not be deemed to repeal such by-law, but the same shall remain in force as though this Chapter had not been passed.

### Protection of Railway Employees—Power of Governor to make Regulations.

Chapter 99.—7. (1.) The Governor in Council may,—

(c.) Make regulations with respect to the method of passing from one car to another either inside or overhead, and for the safety of railway employees while passing from one car to another and for the coupling of cars;

(d.) Impose penalties, not exceeding twenty dollars for each offence, on every person who offends against any regulation made under this section, which penalties shall be recoverable upon summary conviction.

(2) The imposition of any such penalties shall not lessen or affect any other liability which any person has incurred.

### Railway Bridges, Tunnels, etc.

Chapter 99.—183. (1) Every bridge or other erection or structure or tunnel over or through or under which any railway passes, and every tunnel through which any railway passes, shall, at all times, be so maintained as to admit of any open and clear headway of at least seven feet between the top of the highest freight cars used in the railway and the bottom of the lower beams, members or portions of that part of such bridge, erection, structure or tunnel, which is over the railway.

(2) The company, before using higher freight cars than those which admit of such open and clear headway of at least seven feet, shall, after having first obtained the consent of the municipality or of the owner of such bridge or other erection, structure or tunnel, raise every such bridge or other erection, structure or tunnel, and the approaches thereto, if necessary, so as to admit of such open and clear headway of at least seven feet.

(3) Whenever any bridge, erection, structure, or tunnel is constructed over or on the line of a railway, or whenever it becomes necessary to reconstruct any bridge, erection, structure or tunnel already built over or on the line of a railway, or to make large repairs to the same, such bridge, erection, structure or tunnel, and the approaches thereto, if necessary, shall be constructed, reconstructed or repaired at the cost of the company, or of the municipality, or other owner of the bridge, erection, structure or tunnel, as the case may be, and shall be so constructed and at all times maintained as to admit of an open and clear headway of at least seven feet between the top of the highest freight cars then used on the railway and at the bottom of the lower beams, members or portions of that part of such bridge, erection, structure or tunnel, which is over the railway.

(4) Such company shall thereafter, before using higher freight cars than those used on its railway at the time of the construction or reconstruction of or large repairs to such bridge, erection, structure or tunnel, after having first obtained the consent of the municipality, or of the owner of such bridge, erection, structure or tunnel, raise the said bridge or other erection, structure or tunnel and the approaches thereto, if necessary, so as to admit, as aforesaid, of an open and clear headway of at least seven feet over the top of the highest freight car then about to be used on the railway.

(5) The Governor in Council may exempt from the operations of this section any bridge, erection, structure or tunnel which is upon any portion of any line of railway on all the cars of the trains running upon which air-brakes are used or otherwise.

(6) Every company shall be liable to a penalty not exceeding fifty dollars per day for every day of wilful neglect, omission or refusal to obey the provisions of this section.

184. No company shall run its trains on any bridge unless such bridge is constructed and maintained with safeguards approved by the Commissioner. This section shall not apply to any bridge already constructed, until six months after the coming into force of this Chapter.

### Inspection of Railways.

Chapter 99.—197. Whenever the Commissioner receives information to the effect that any bridge, culvert, viaduct, tunnel or any other portion of any railway, or any engine, car or carriage used or for use on any railway, is dangerous to the public using the same, from want of repair, insufficient or erroneous construction, or from any other cause, or whenever circumstances arise which, in his opinion render it expedient, he may direct the Provincial Engineer to examine and inspect the railway or any portion thereof, or of the works connected therewith, or the engines and other rolling stock in use thereon, or any portion thereof, and, upon the report of the Provincial Engineer, may condemn the railway, or any portion thereof, or any of the rolling stock or other appliances used thereon, and, with the approval of the Governor in Council, may require any change or alteration therein or in any part thereof, or the substitution of any new bridge, culvert, viaduct or tunnel, or of any material for the said railway; and thereupon the company to which such railway belongs, or the company using, running or con-



trolling the same, shall, after notice thereof in writing, proceed to make good or remedy the defects in the said portions of the railway, or in the locomotive, car or carriage which has been so condemned, or shall make such change, alteration or substitution as has been required by the Commissioner.

202. If, in the opinion of the Provincial Engineer, it is dangerous for trains or vehicles to pass over any railway, or any portion thereof, until alterations, substitutions or repairs are made thereon, or that any particular car, carriage, or locomotive should be run or used, the Provincial Engineer may forthwith forbid the running of any train or vehicle over such railway or portion of railway, or the running or using of any such car, carriage or locomotive, by delivering or causing to be delivered to the president, managing director or secretary or superintendent of the company owning, running or using such railway, or to any officer having the management or the control of the running of trains on such railway, a notice in writing to that effect, with his reasons therefor, in which he shall distinctly point out the defects or the nature of the danger to be apprehended; and for every failure to comply therewith such company shall be liable to a penalty of two thousand dollars.

203. The Provincial Engineer shall forthwith report the same to the Commissioner who, with the sanction of the Governor in Council, may either confirm, modify or disallow the act or order of the Provincial Engineer; and notice of such confirmation, modification or disallowance shall be duly given to the company affected thereby.

### Rules for Railway Employees.

Chapter 99.—206. The company may, subject to the provisions and restrictions in this Chapter and in the special Act contained, make by-laws, rules or regulations for the following purposes, that is to say:—

(b) For the appointment of all officers, servants, and artificers, and for prescribing their respective duties, and the compensation to be made therefor;

(c) For the retirement of such of said officers and servants, on such terms as to an annual allowance or otherwise, as, in each case the directors, in the interest of the company's service and under the circumstances, consider just and reasonable;

(i) For regulating the travelling upon, or the using or working of the railway:

(j) For regulating the conduct of the officers, servants and employees of the company: and

(k) For providing for the due management of the affairs of the company in all respects whatsoever.

207. The company may, for the better enforcing the observance of any such by-law, rule or regulation thereby, prescribe a penalty not exceeding forty dollars for any violation thereof.

208. All by-laws, rules and regulations of the company shall be reduced to writing, be signed by the chairman or person presiding at the meeting at which they are adopted, have affixed thereto the common seal of the company, and be kept in the office of the company.

209. All such by-laws, rules and regulations shall be submitted from time to time to the Governor in Council for approval, and no such by-law, rule or regulation shall have any force or effect until it is approved by the Governor in Council.

211. A printed copy of so much of any by-law, rule or order as relates to the conduct of or affects the officers, servants or employees of the company, shall be given to every officer, servant and employee of the company thereby affected.

212. Such by-laws, rules and regulations, when so confirmed, shall be binding upon and observed by all persons, and shall be sufficient to justify all persons acting thereunder.

213. If the violation or non-observance of any such by-law, rule or regulation is attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, the company may summarily interfere, to obviate or remove such danger, annoyance or hindrance, and without prejudice to any penalty incurred by the violation of such by-law, rule or regulation.

214. A copy of any by-law, rule or regulation certified as correct by the president or secretary of the company, shall be evidence thereof in any court.

[Sections 206 to 214, both inclusive, of chapter 99 of the Revised Statutes, 1900, shall hereafter apply to tramways. 1906, c. 25, s. 1.]

In said sections the word "railway" shall include tramway, and the word "Company" shall include any person, firm or corporation having authority to construct or operate a tramway; and the words "special Act" shall include any Act under which the company has authority to construct or operate a tramway, or which is erected with special reference to such tramway, and includes all such Acts. 1906, c. 25, s. 2.]



### Operation of Trains—Safety Appliances, etc.

Chapter 99 with amendment.—235. Every railway company, which runs trains upon the railway for the conveyance of passengers, shall provide and cause to be used in and upon such trains such known apparatus and arrangements as best afford good and sufficient means of immediate communication between the conductors and the engine drivers of such trains while the trains are in motion,—and good and sufficient means of applying, by the power of the steam engine or otherwise, at the will of the engine driver or other person appointed to such duty, the brakes to the wheels of the locomotive or tender, or both, or of all or any of the cars or carriages composing the trains, and of disconnecting the locomotive, tender and cars or carriages from each other by any such power or means,—and also such apparatus and arrangements as best and most securely place and fix the seats or chairs in the cars or carriages,—and shall alter such apparatus and arrangements or supply new apparatus and arrangements, from time to time, as the Governor in Council orders; and every railway company which fails to comply with any of the provisions of this section, shall be liable to a penalty not exceeding two hundred dollars for every day during which such default continues, and shall, as well, be liable to pay to all such persons as are injured by reason of non-compliance with these provisions, or to their representatives, such damages as they are legally entitled to, notwithstanding any agreement to the contrary with regard to any such person.

(2) Every railway company shall, before December 31, 1917, equip all rolling stock with couplers which couple automatically by impact, and which can be uncoupled without the necessity of men going in between the ends of the cars. 1914, c. 31, s. 1, part.

(3) Any railway company which fails to comply with the provisions of the last preceding subsection, shall be liable to a penalty of not less than two hundred dollars for each and every failure to comply therewith. 1914, c. 31, s. 1, part.

236. Every locomotive engine shall be furnished with a bell, of at least thirty pounds weight, and with a steam whistle.

237. No baggage, freight, merchandise or lumber cars shall be placed in rear of the passenger cars.

### Railway Employees to wear Badges.

Chapter 99.—239. Every servant of the company employed in a passenger train or at a station for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and he shall not, without such badge, be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, or to interfere with any passenger or his baggage or property.

### Transportation of Explosives.

[Chapter 99, sections 44 and 45, deals with the transportation of explosives.]

### Provisions for Safety of Public—Penalty for Negligence of Railway Employees.

Chapter 99.—247. The bell with which the engine is furnished shall be rung or the whistle sounded, at the distance of at least eighty rods from every place at which the railway crosses any highway, and be kept ringing or be sounded at short intervals, until the engine has crossed such highway; and the company shall, for every failure to comply with the provisions of this section, be liable to a penalty of eight dollars, and shall also be liable for all damage sustained by any person by reason of such failure; and a moiety of such penalty and damages shall be chargeable to and collected by the company from the engineer who has charge of such engine, and who neglects to sound the whistle or ring the bell as aforesaid.

### Safety Provisions—Packing, etc.

Chapter 99 with amendment.—253. (1) In this section the expression "packing" means a packing of wood or metal, or some other equally substantial and solid material, of not less than two inches in thickness, and which, where by this section any space is required to be filled in, shall extend to within one and a half inches of the crown of the rails in use on any such railway, shall be neatly fitted so as to come against the web of such rails, and shall be well and solidly fastened to the ties on which such rails are laid.

(2) The spaces behind and in front of every railway frog or crossing, and between the fixed rails of every switch where such spaces are less than five inches in width, shall be filled with packing up to the under side of the head of the rail.

(3) The spaces between any wing rail and any railway frog, and between any guard rail and the track rail alongside of it, shall be filled with packing at their splayed ends, so that the whole splay shall be so filled where the width of the space between the rails is less than five inches; such packing not to reach higher than to the under side of the head of the rail: Provided however, that the Governor in Council may allow such filling to be left out, from the month of December to the month of April in each year, both months included.

(4) The oil cups or other appliances used for oiling the valves of every locomotive in use upon any railway, shall be such that no employee shall be required to go outside the cab of the locomotive, while the same is in motion, for the purpose of oiling such valves.

253a. (1) All companies operating steam locomotives, except for yard service, shall on or before the 31st day of December, A.D., 1917, equip such locomotives, as may be in use, with ash pans that can be dumped or emptied without the necessity of any employee going under such locomotives except in cases of emergency; but this shall not apply to any locomotive employed about any railway yard, wharf, pier or mine, provided a sufficient number of ash pits are provided by the company for the purpose of cleaning ash pans in case of such locomotive so used for yard service; nor shall this section apply to roads used solely or mainly for lumbering purposes.

(2) After the said date, it shall be unlawful for any such company to use any such locomotive not equipped as above provided, and every company violating the provisions of the last preceding sub-section shall be liable to a penalty of one hundred dollars for each and every such violation.

(3) A sufficient number of ash pits shall be provided in all yards for the purpose of cleaning out fires in all engines used for yard service, and any company failing to provide the same shall be liable to a penalty of not less than fifty dollars. 1914, c. 31, s. 2, part.

253b. (1) The Governor in Council, on the recommendation of the Commissioner, may make regulations providing for the testing and inspecting of the locomotive boilers used on railways, may appoint an officer to make such inspection, and may fix fees therefor payable by the railway company, and such regulations shall be published in at least two issues of "The Royal Gazette," and shall be made and come into effect not later than December 31, 1914.

(2) Such regulations may cover all such matters as may be deemed proper to secure a uniform standard of strength, safety and efficiency in the inspection and operation of such locomotive boilers, and any company violating any provision of such regulation shall be liable to a penalty of one hundred dollars for each and every violation.<sup>1</sup> 1914, c. 31, s. 2, part.

### Accidents on Railways.

Chapter 99.—258. Every company shall, as soon as possible, and within forty-eight hours at the furthest, after the occurrence upon the railway belonging to such company, of any accident attended with serious personal injury to any person using the same, or whereby any bridge, culvert, viaduct or tunnel on or of the railway has been broken or so damaged as to be impassable or unfit for immediate use, give notice thereof to the Commissioner; and every company which wilfully omits to give such notice shall be liable to a penalty of two hundred dollars for every day during which the omission to give the same continues.

259. The Governor in Council, on the recommendation of the Commissioner, may appoint such person or persons as he thinks fit to be a commissioner or commissioners for inquiring into the causes of and the circumstances connected with any accident or casualty to life or property occurring on any railway, and into all particulars relating thereto; and such commissioner or commissioners shall receive such remuneration for his or their services as the Governor in Council determines.

260. The commissioner or commissioners shall report fully, in writing, to the Commissioner, his or their doing and opinions on the matters respecting which he or they are appointed to inquire.

261. The remuneration of the commissioners and the fees and allowances to the witnesses shall be paid out of the Provincial Treasury.

### Railways—Actions for Damages.

Chapter 99.—278. All actions for indemnity for any damages or injury sustained by reason of the railway, shall be commenced within one year next after the time when such alleged damage is sustained, or if there is continuation of damage, within one year

<sup>1</sup> Under the authority of this section, regulations have been put in force governing the inspection, and testing of locomotive boilers used on railways subject to the Nova Scotia Railways Act.

next after the doing or committing of such damage ceases, and not afterwards; and the defendants may plead the general issue and give this Chapter and the special Act and the special matter in evidence at any trial to be had thereupon, and may prove that the same was done in pursuance of and by the authority of this Chapter or of the special Act.

### **Liability of Railway Companies.**

Chapter 99.—279. No inspection had under this chapter, and nothing in this chapter contained, and nothing done or ordered or omitted to be done or ordered, under or by virtue of the provisions of this Chapter, shall relieve, or be construed to relieve, any company of or from any liability or responsibility resting upon it by law, either towards Her Majesty or towards any person, or the wife or husband, parent or child, executor or administrator, tutor or curator, heir or personal representative, of any person, for anything done or omitted to be done by such company, or for any wrongful act, neglect or default, misfeasance, malfeasance or nonfeasance, of such company, or in any manner or way to lessen such liability or responsibility, or in any way to weaken or diminish the liability or responsibility of any such company.

### **Negligence of Railway Employees.**

Chapter 99.—282. Every officer or servant of any company or any person employed by it who directs or knowingly permits any baggage, freight, merchandise or lumber car to be placed in the rear of the passenger cars, shall be guilty of an offence against this chapter.

### **Intoxication of Railway Employees.**

Chapter 99.—283. Every person who is intoxicated while he is in charge of a locomotive engine, or acting as the conductor of a car or train of cars, shall be guilty of an offence against this Chapter.

284. Every person who sells, gives or barter any spirituous or intoxicating liquors to or with any servant or employee of any company while on duty, is liable on summary conviction to a penalty not exceeding fifty dollars, or to imprisonment with or without hard labour for a period not exceeding one month, or to both.

### **Penalty for Negligence of Railway Employees.**

Chapter 99.—285. Every officer or servant of, and every person employed by, the company, who wilfully or negligently violates any of the provisions of this Chapter, or any by-law, rule or regulation of the company lawfully made and enforced, or any order or notice of the Governor in Council, or of the Commissioner or Provincial Engineer, of which a copy has been delivered to him, or which has been posted up or open to his inspection in some place where his work or his duties, or any of them, are to be performed, if such violation causes injury to any person or to any property, or exposes any person or any property to the risk of injury, or renders such risk greater than it would have been without such violation, although no actual injury occurs, shall be guilty of an offence against this chapter, and shall, in the discretion of the court before which the conviction is had, and according as such court considers the offence proved to be more or less grave, or the injury or risk of injury to person or property to be more or less great, be punished by fine or imprisonment, or both; but no such fine shall exceed four hundred dollars, and no such imprisonment shall exceed the term of five years.

286. If such contravention does not cause injury to any property or person, or expose any person or property to the risk of injury, or make such risk greater than it would have been without such contravention, then the officer, servant or other person guilty thereof, shall be liable to a penalty not exceeding the amount of thirty days' pay, or less than fifteen days' pay, of the offender from the company, in the discretion of the magistrate before whom the conviction is had.

287. One moiety of such penalty shall belong to Her Majesty for the public uses of the province and the other moiety to the informer, unless he is an officer or servant of, or person in the employ of, the company, in which case the whole penalty shall belong to Her Majesty for the uses aforesaid.

288. The company may, in all cases under the next three preceding sections, pay the amount of the penalty and costs, and recover the same from the offender or deduct it from his salary or pay.

### Returns of Railway Accidents.

Chapter 99.—289. Every person who wilfully or negligently violates any by-law, rule or regulation of the company shall be liable, for each offence, to a penalty not exceeding the amount therein prescribed, or if no amount is so prescribed to a penalty not exceeding twenty dollars; but no such person shall be convicted of any such offence, unless at the time of the commission thereof a printed copy of such by-law, rule, or regulation was openly affixed to a conspicuous part of the station at which the offender entered the train or at or near which the offence was committed.

304. Every company shall, within one month after the first days of January and July, in each and every year, make to the Commissioner, under the oath of the president, secretary or superintendent of the company, a true and particular return of all accidents and casualties, whether to life or property, which have occurred on the railway of the company during the half year next preceeding each of the said periods respectively, setting forth,—

- (a) The causes and natures of such accidents and casualties;
- (b) The points at which they occurred, and whether by night or by day;
- (c) The full extent thereof, and all the particulars of the same;

And shall also, at the same time, return a true copy of the existing by-laws of the company, and of its rules and regulations, for the management of the company and of its railway.

305. The Commissioner may order and direct from time to time the form in which such returns shall be made up, and may order and direct any company to make up and deliver to the Commissioner from time to time, in addition to the said periodical returns, returns of serious accidents occurring in the course of the public traffic upon the railway belonging to such company, whether attended with personal injury or not, in such form and manner as the Commissioner deems necessary and requires for his information with a view to the public safety.

306. If the returns required under the two sections next preceding, so verified, are not delivered within the respective times in the said sections prescribed, or within fourteen days after the same have been so required by the Commissioner, every company which makes default in so doing shall be liable to a penalty of one hundred dollars for every day during which the company neglects to deliver the same.

307. All returns made in pursuance of any of the provisions of this Chapter shall be privileged communications, and shall not be evidence in any court whatsoever.

### Company Doctors—Protection of Employees in Choice of Physicians.

Chapter 104 with amendments.—1. This Chapter may be cited as "The Company Doctors' Act."

2. In any case in which an employer in any mine or manufacturing establishment makes a monthly deduction of wages of employees for medical attendance, any employee of such employer may by writing specify any duly qualified medical practitioner in respect to whose services the employer may deduct a fee from the wages of such employee.

3. The employer shall be bound to recognize the specification of the employees when at least twenty-five per centum of the persons employed at any mine unite in specifying some qualified medical practitioner whose services they desire, in which case such medical practitioner shall be recognized by the employer as a regular medical attendant of the company, and the employer shall, upon request of any qualified medical practitioner, resident in the vicinity of the mine or manufacturing establishment, from time to time, furnish to such practitioner a list of the employees who have specified such medical practitioner as their medical attendant under the provisions of this Act and shall pay over to the medical practitioner or practitioners specified as the medical attendant or attendants, the amounts deducted from the wages of the employees who have united in specifying such practitioner as a regular medical attendant. 1907, c. 24, s. 1. 1909, c. 34, s. 1.

4. Every employer who contravenes or fails to comply with the provisions of this Chapter shall, for each offence, be liable to a penalty of one hundred dollars.

### Earnings of Married Women.

Chapter 112.—5. Every woman who marries after the coming into force of this Chapter, shall be entitled to have and to hold as her separate property, and dispose of in manner aforesaid, all real and personal property which belongs to her at the time of marriage, or is acquired by, or devolves upon her after marriage, including any wages, earnings, money and property gained or acquired by her in any employment, trade or occupation, in which she is engaged, or which she carries on separately from her husband, or by the exercise of any literary, artistic or scientific skill.

### Apprenticeship.

Chapter 117.—1. In this chapter unless the context otherwise requires,

(a) the expression "infant" means a male person under the age of twenty-one, and a female person under the age of eighteen;

(b) the expression "master" means any person to whom an infant is bound apprentice under the provisions of this Chapter and includes "mistress."

2. (1) Infants under the age of fourteen may be bound as apprentices or servants under this Chapter until they reach that age.

(2) Infants above the age of fourteen years may be so bound until,

(a) if males, they reach the age of twenty-one years, or

(b) if females, they reach the age of eighteen years or marry.

3. (1) Infants may be bound,

(a) by their father, or

(b) by their mother if they are illegitimate, or if their father is dead, insane, absent or otherwise incompetent, or

(c) by their guardian, if any is appointed, and both father and mother are dead, insane, absent or otherwise incompetent, or

(d) by themselves, with the approval of two justices of the peace, if they have no parents competent to act and no guardian.

(2) In the case of any infant above the age of fourteen years being bound by his parent or guardian, the consent of such infant shall be expressed in the indenture and signified by his signing the same.

4. The overseers of the poor for any poor district may bind as apprentices or servants the infant children of any person who is in need of relief from such district and has a settlement therein, and also all infants who are themselves in need of such relief and have such settlement, and in such cases the master shall be bound by the indenture of apprenticeship to make provision for the instruction of such apprentices or servants, in reading, writing and arithmetic, and for such other instruction, benefit and allowances, either during the term of apprenticeship or services or at the end thereof, as the overseers think reasonable.

5. (1) No infant shall be bound otherwise than by an indenture in duplicate, executed by both the parties thereto, and when made with the approval of two justices of the peace, such approval shall be in writing signed by them upon each part of the indenture.

(2) One part of the indenture shall be kept for the use of the infant by the parent or guardian executing the same, and when made by the overseers of the poor, or with the approval of two justices of the peace, it shall be deposited with the town clerk or clerk of the municipality for the use of the infant, and the other part thereof shall be kept by the master to whom the apprentice is bound.

6. All considerations of money or other things paid or allowed by the master upon any contract of apprenticeship or service under this Chapter, shall be paid or secured to the sole use of the infant bound thereby.

7. Parents, guardians, justices of the peace and overseers shall inquire into the treatment of all infants bound by them respectively, or with their approval, and in the case of guardians and overseers of all who have been bound by their predecessors in office, and protect them from all cruelty, neglect and breach of contract on the part of their masters.

8. In case of any misconduct or neglect of the master, a complaint may be made in writing by the parents, guardians, justices, or overseers, to any two justices of the peace for the county in which the master resides, setting forth the facts and circumstances of the case; and the justices, after having duly notified the master, shall hear and determine the same.

9. After hearing the parties, or the complainants alone if the master neglects to appear, the justices may order that the infant be discharged from the apprenticeship or service, and give the costs of the proceeding against the master, and may issue execution accordingly, and the infant may be thereupon bound out anew.

10. If the complaint is not sustained, the justices shall award costs against the complainants, and shall issue execution therefor, provided that in case of such a complaint by overseers, the justices shall not award costs against them unless it appears that the complaint was made without reasonable cause.

11. Any person feeling himself aggrieved by the decision of any justices under the next three preceding sections, may appeal therefrom to the county court for the county in which the master resides at its next term in such county, and such appeal shall be perfected and determined in the same manner as in civil actions.

12. If any apprentice or servant bound as in this Chapter unlawfully departs from the service of his master, or is guilty of any gross misbehaviour, or refusal to do his duty, or wilful neglect thereof, any justice of the peace, upon complaint on oath made to him by the master, or by any one on his behalf, may issue a warrant to apprehend

the apprentice or servant and bring him before the same or any other justice; and if the complaint is supported, the justice may order the offender to be returned to his master, or may commit him to the common jail for a term not exceeding twenty days, unless sooner discharged by his master.

### Wages as Preferred Claims—In Assignments.

Chapter 145.—22. Whenever an assignment is made of any real or personal property for the general benefit of creditors under the provisions of this Chapter, the assignee shall pay in priority to the claims of the ordinary or general creditors of the person making the same, the wages or salaries of all persons in the employment of such person at the time of making such assignment or within one month before the making thereof, not exceeding three months' wages or salary; and such persons shall be entitled to rank as ordinary or general creditors for the residue, if any, of their claims.

### Sunday Labour.

Revised Statutes, Third Series, Chapter 159 with amendments.—2. Any person who shall be convicted before a justice of the peace of . . . servile labour, works of necessity and mercy excepted, on the Lord's Day, shall for the first offence forfeit not less than two dollars nor more than ten dollars, and in default of payment shall be committed to jail for a term of not less than forty-eight hours nor more than five days, and shall for a second or any subsequent offence forfeit not less than ten nor more than twenty dollars, and in default of payment shall be committed to jail for a term of not less than five nor more than twenty days, but the penalties against corporations shall be for the first offence the forfeit of a sum of not less than five dollars nor more than twenty dollars, and for a second or any subsequent offence forfeit not less than twenty nor more than fifty dollars. 1889, c. 57, s. 1.

[The same amending act, 1889, c. 57, contains a second section, (amended by 1890, c. 22, s. 1) which defines the word "person" in the above section as follows:—

2. The word person in the said section of the said Act shall apply to bodies corporate as well as to individuals, and shall include employer as well as the employed. 1889, c. 57, s. 2. 1890, c. 22, s. 1.]

7. Any person who employs or hires, or procures any other person to perform servile labour (works of necessity and mercy excepted) on Sunday, or who directs, allows, permits or procures any one or more of his servants, workmen or employees to perform servile labour (works of necessity and mercy excepted) on Sunday, is guilty of performing servile labour on Sunday within the meaning of the second section of this Act, and shall for the first offence forfeit not less than the sum of two dollars, nor more than the sum of five dollars, and in default of payment shall be committed to jail for a term of not less than forty-eight hours, nor more than five days; and shall for a second or subsequent offence forfeit not less than the sum of ten dollars, nor more than the sum of twenty dollars, and in default of payment shall be committed to jail for a period of not less than five days nor more than twenty days. 1891, c. 32, s. 1.

8. Any body corporate which employs or hires, or procures any person to perform servile labour (works of necessity and mercy excepted) on Sunday, or which directs, permits, allows, or procures any one or more of its servants, workmen, or employees to perform servile labour (works of necessity and mercy excepted) on Sunday, is guilty of performing servile labour on Sunday within the meaning of the second section of this Act, and shall for the first offence forfeit not less than the sum of five dollars, and not more than the sum of twenty dollars; and shall for a second or any subsequent offence forfeit not less than the sum of twenty dollars, and not more than the sum of fifty dollars. 1891, c. 32, s. 1.

[These sections are reprinted without being consolidated at the end of the Revised Statutes of 1900.]

## STATUTES OF 1901.

### Inspection and Regulation of Factories.

Chapter 1 with amendments.—1. This Act may be cited as "The Nova Scotia Factories' Act."

#### Interpretation.

2. In this Act, unless the context otherwise requires, the following expressions shall be construed in the manner in the section mentioned.

(1) "Factory" means:

(a) Any premises, building, workshop, structure, room or place wherein, or within the precincts of which, steam, water or other mechanical power is used to move or work any machinery employed in preparing, manufacturing or finishing, or in any process incidental to the preparing, manufacturing or finishing of any article, substance, material, fabric or compound, or is used to aid the manufacturing process carried on there.

(b) Any other building, workshop, structure, room or premises to which this Act is, by the Governor in Council by proclamation published in the Royal Gazette, declared to apply. A part of a factory may for the purpose of this Act be taken to be a separate factory.

(2) "Inspector" means the inspector appointed by order of the Governor in Council under the authority of and for enforcing the provisions of this Act in and for the locality in reference to which such expression applies, and which locality shall be that designated in the order.

(3) "Employer" means any person who in his own behalf or as the manager, superintendent, overseer or agent for any person, firm, company or corporation, has charge of any factory and employs persons therein.

(4) "Week" means the period between midnight on Sunday night and midnight on the succeeding Saturday night.

(5) "Child" means a person under the age of fourteen years.

(6) "Young girl" means a girl of the age of fourteen years and under the age of eighteen years.

(7) "Women" means a woman of eighteen years of age and upwards.

(8) "Parent" means a parent or guardian of, or a person having the legal custody of, or the control over, or having direct benefit from the wages of any child or young girl.

(9) "Court" means the justices of the peace or stipendiary magistrate before or by whom an action, prosecution or proceeding under the Act is heard, and also, in case of an appeal in any such action, prosecution or proceeding, the court by which such appeal is heard.

(10) "Mill-gearing" comprises every shaft, whether upright, oblique or horizontal, and every wheel, drum or pulley, by which the motion of the first moving power is communicated to any machine appertaining to a manufacturing process.

#### Application.

3. The Governor in Council may, by proclamation published in the Royal Gazette, exempt any building, workshop, structure, room or premises from the operation of this Act, or from any particular part thereof, and such exemption may be of the whole building, workshop, structure, room or premises, or of any particular part thereof, and may be either for an indefinite time or for a limited period, and any such exemption may be revoked in the same manner as it is created.

4. (1) The provisions of this Act which relate:

(a) To the cleanliness or to the freedom from effluvia, or to the overcrowding or ventilation, of a factory; and

(b) To children, young girls and women being, during any part of the times allowed for meals in a factory, employed in the factory or being allowed to remain in any room; and

(c) To the posting up of any notice or abstract in a factory or specifying any matter in the notice so posted up, save and except where such notice is a notice of the name and address of the inspector; and

(d) To sending notice of accidents;

shall not apply where persons are employed at home that is to say to a private house, room or place used as a dwelling in which neither steam, water or other mechanical power is used, and in which the only persons employed are members of the same family dwelling there, though such house, room or place might by reason of the work carried on there be a factory within the meaning of this act.

5. Nothing in this Act shall extend to any person being a mechanic, artizan or labourer, working only in repairing either the machinery in, or any part of, a factory.

#### Sanitary Provisions.

6. (1) Every factory shall be kept in a cleanly state and free from effluvia arising from any drain, privy or any other nuisance.

(2) A factory shall not be so overcrowded when work is carried on therein as to be injurious to the health of the persons employed therein.

(3) Every factory shall be ventilated in such a manner as to render harmless, so far as reasonably practicable, all the gases, vapours, dust or other impurities generated in the course of the manufacturing process or handicraft carried on therein that may be injurious to health.



(4) In every factory there shall be kept provided a sufficient number and description of privies, earth or water closets, and urinals, for the employees of such factory; such closets and urinals shall at all times be kept clean and well ventilated, and separate sets thereof shall be provided for the use of male and female employees and shall have respectively separate approaches.

(5) A factory in which there is a contravention of this section or of the regulations made for the enforcement of this section, shall be deemed to be kept unlawfully, and so that the health of any person employed therein is likely to be permanently injured, and the employer shall, because thereof, be deemed to be guilty of a contravention of a provision of this Act.

(6) Without in any way restricting the general application of the foregoing, the following additional provisions shall apply to brass, iron and steel foundries, hereinafter referred to as foundries,—

(a) all entrances as to foundries shall be so constructed and maintained as to minimize drafts, and all windows therein shall be maintained in proper condition and repair.

(b) smoke, steam and gases generated in foundries shall be promptly and effectively removed therefrom, and whenever it is necessary, exhaust fans of sufficient capacity and power, properly equipped with piping and hoods, shall be provided and operated to remove such smoke, steam and gases. The milling and cleaning of castings shall be done in rooms not otherwise used during the process of such milling or cleaning, and provision shall be made for confining and collecting the dust arising during the process;

(c) all foundries shall be properly and thoroughly lighted during working hours, and in cold weather proper and sufficient heat shall be provided and maintained therein. The use of heaters discharging smoke or gas into workrooms is prohibited. In every foundry employing five or more moulders, there shall be provided and maintained for the use of employees therein, suitable and convenient wash-rooms, adequately equipped with proper hot and cold water service; such washrooms shall be kept clean and sanitary and shall be properly heated during the cold weather. Lockers shall be provided for the safe-keeping of employee's clothing, and proper facilities shall be provided for drying the working clothes of the employees. Water-closets used by foundry employees shall be so arranged or located that such employees in passing thereto or therefrom shall not be exposed to outdoor atmospheres and such water-closets shall be properly heated during cold weather. 1915, c. 27, s. 1.

7. (1) In every factory where, contrary to the provisions of this Act, there is any omission, act, neglect or default in relation to any overcrowding, ventilation, drain, privy, earth-closet, water-closet, ash-pit, water supply, nuisance or other matter whereby the health of persons employed in the factory may be affected, the employer shall within a reasonable time take such action thereon as the inspector, acting under the regulations, if any, made in respect of such subjects, notifies the employer to be proper and necessary; and

(2) In every factory where any process is carried on by which dust is generated and inhaled by the workers to an injurious extent, if such inhalation can by mechanical means be prevented or partially prevented, the inspector may, subject to such regulations, if any, as are made in that behalf, direct that such means shall be provided within a reasonable time by the employer, who in such cases shall be bound so to provide them.

(3) A factory in which the provisions of this section are not complied with by the employer shall be deemed to be kept unlawfully and so that the health of any person therein employed is likely to be permanently injured and such employer shall because thereof be deemed to be guilty of a contravention of the provisions of this Act.

8. (1) Where two or more persons occupy or use the same room or premises for carrying on any work or business within the meaning of this Act, and employ in the aggregate six persons or more, no one of such persons employing so many as six, each of the several employers shall be held responsible for providing proper and sufficient water-closets, and the other requirements set forth in the next two preceding sections of this Act: which said sections shall apply to each and every of such employers as if they were partners in all the work or business of the said room or premises.

(2) The inspector may, for the purposes of the next three preceding sections, take with him into any factory a physician, health officer or other officer of the local sanitary authority.

9. (1) No employer shall employ in any factory any child, young girl or woman in such a manner that the health of such child, young girl or woman is likely to be permanently injured.

(2) Every employer who so employs any child, young girl or woman shall be liable to a penalty not exceeding one hundred dollars, and in default of payment to imprisonment for a period not exceeding six months.

10. (1) No employer shall keep any factory in such a condition that the safety of any person employed therein is endangered or the health of any such person is likely to be permanently injured.

(2) Every employer who contravenes or fails to comply with the requirements of this section shall for each such offence be liable to a penalty not exceeding three hundred dollars, and in default of payment to imprisonment for a period not exceeding one year.

#### Employment and Hours.

11. Except as in this Act otherwise provided no child shall be employed in any factory, and every employer who contravenes this section shall for each offence be liable to a penalty not exceeding one hundred dollars, and in default of payment to imprisonment not exceeding six months.

11a. (1) Every employer shall, before permitting a person under the age of sixteen years to work in a factory, obtain a certificate of birth from such person or an affidavit proving age, which said affidavit shall be duly sworn by someone having knowledge of the age of such person, before a justice of the peace or some other authority qualified to administer an oath, and keep the same on file at the factory.

(2) The inspector may require the production of such birth certificate or affidavit proving age at any time.

(3) Any employer who employs a person under the age of sixteen years without first having secured a birth certificate or affidavit proving age, or who refuses to produce such birth certificate or affidavit proving age when requested to do so by the Inspector, shall, for each offence, be liable to a fine of not less than ten dollars or more than fifty dollars, or in default of payment, to imprisonment for not more than three months.

(4) Such birth certificate shall be in the Form "E" in the Schedule to this Act, and such affidavit shall be in the Form "F" in the schedule to this Act. 1912, c. 56, s. 1.

12. (1) Boys and girls under fourteen years of age may be employed during the months of July, August, September and October in any year in such gathering in and other preparation of fruits or vegetables for canning or desiccating purposes as is required to be done prior to the operation of cooking or other process of that nature requisite in connection with the canning or desiccating of fruits or vegetables.

(2) The place, room or apartment in which such boys or girls are so employed shall be separate from any other wherein the cooking or other process aforesaid, or the canning or desiccating of said fruits or vegetables, is carried on.

13. The Governor-in-Council may from time to time by Order-in-Council, notice of which shall be published in the "Royal Gazette," prohibit the employment of girls under the age of eighteen, and boys under the age of sixteen, in factories, the work in which is deemed by the Governor in Council to be dangerous or unwholesome.

14. (1) If a person is found in a factory, except at meal times or while all the machinery of the factory is stopped, or for the sole purpose of bringing food to the persons employed in the factory, such person shall until the contrary is proved, be deemed for the purpose of this Act to have been then employed in the factory.

(2) Yards, playgrounds and places open to the public view, waiting rooms and other rooms belonging to the factory in which no machinery is used or manufacturing process is carried on, shall not be taken to be any part of the factory within the meaning of this section.

(3) Where a child or young girl, is in the opinion of the court, apparently of the age alleged by the informant, it shall lie on the defendant to prove that the child or young girl is not of that age.

15. A child, young girl or woman who works in a factory, whether for wages or not, either in a manufacturing process or handicraft, or in cleaning any part of the factory used for any manufacturing process or handicraft, or in cleaning or oiling any part of the machinery or in any other kind of work whatsoever incidental to or connected with the manufacturing process or handicraft, or connected with the article made, or otherwise the subject of the manufacturing process or handicraft therein shall, save as is otherwise provided by this Act, be deemed to be employed in such factory within the meaning of this Act, and for the purpose of this Act an apprentice shall be deemed to work for hire.

16. (1) It shall not be lawful for a child in the cases provided for by section 12, nor for a boy or girl under the age of sixteen, to be employed for more than eight hours in any one day, nor for more than four hours on any Saturday; nor shall it be lawful for any young girl to be employed for more than nine hours in one day. 1909, c. 36, s. 2. 1910, c. 17, s. 20.

(2) In every factory the employer shall allow every child, young girl and woman therein employed not less than one hour at noon of each day for meals; but such hour

shall not be counted as part of the time herein limited as respects the employment of children, young girls and women.

(3) If the inspector so directs in writing, the employer shall not allow any child, young girl or woman to take meals in any room wherein any manufacturing process is then being carried on. And if the inspector so directs in writing, the employer shall at his own expense provide a suitable room or place in the factory or in connection therewith for the purposes of a dining and eating room for persons employed in the factory.

17. (1) Notwithstanding anything contained in this Act, women may during the months of July, August, September and October in any year be employed to a later hour than nine o'clock in the afternoon of any day in any factory wherein the only work or operations carried on relate to or are exclusively such as may be necessary for the canning or desiccating of fruits or vegetables, and the preparation thereof for being so canned or desiccated; but no woman shall be so employed during the said months to a later hour than nine o'clock in the afternoon of any day for more than twenty days in the whole, and in reckoning such period of twenty days, every day on which any woman has been so employed to a later hour than nine o'clock in the afternoon shall be taken into account.

(2) Where under the provisions of this section any woman is employed on any day to a later hour than seven o'clock in the afternoon, she shall, on every such day and in addition to the hour for the noon-day meal provided for by this Act, be allowed not less than forty-five minutes for another or evening meal between five and eight of the clock in the afternoon.

18. (1) Subject to any regulations which may be made in that behalf by the Governor-in-Council, it shall be lawful for the inspector—

(a) Where any accident which prevents the working of any factory happens to the motive power of any machinery; or

(b) Where from any occurrence beyond the control of the employer the machinery or any part of the machinery of any factory cannot be regularly worked; or

(c) Where the customs or exigencies of certain trades require that the young girls or women working in a factory, or in certain processes in a factory, shall be employed for a longer period than is herein above provided; on due proof to his satisfaction of such accident, occurrence, customs or exigency of trade, to give permission for such exemption from the observances of the foregoing provisions of this Act, as will, in his judgment, fairly and equitably to the proprietors of, and to the young girls and women in such factory, make up for any loss of labour from such accident or occurrence or meet the requirements of such customs or exigency of trade.

(2) In the case of the inspector permitting such exemption—

(a) No young girl or woman shall be employed before the hour of six o'clock in the morning, nor after the hour of nine o'clock in the evening; and

(b) The hours of labour for young girls and women shall not be more than twelve and a half in any one day, nor more than seventy-two and a half in any one week; and

(c) Such exemption shall not comprise more than thirty-six days in the whole in any twelve months, and in reckoning such period of thirty-six days every day on which any young girl or woman has been employed over time shall be taken into account; and

(d) During the continuance of such exemption there shall, in addition to the hour for the noon-day meal, hereinbefore provided for, be allowed to every young girl or woman so employed in the factory on any day to an hour later than seven of the clock in the afternoon not less than forty-five minutes for another or evening meal between five and eight of the clock in the afternoon; and

(e) In every factory to, or with respect to which any such permission or exemption is so given, there shall, in compliance with the provisions of this Act respecting the posting up of notices, be posted up a notice specifying the extent and particulars of such exemption. 1909, c. 36, s. 3.

19. (1) When under the exemptions allowed herein any young girl or woman is employed in any factory on any day for a longer period than is allowed herein, the duration of such employment shall be daily recorded by the employer in a register by the Act required to be kept by such employer.

(2) Notice of the hours between which young girls or women are to be employed during the period of such exemption shall be made in such form as may be required by the regulations made in that behalf by the Governor in Council, and shall be signed by the inspector and by the employer, and shall be hung up during the period affected by such notice, in such conspicuous place or places in the factory as the inspector requires. 1909, c. 36, s. 3.

## Safety.

## 20. (1) In every factory—

(a) All dangerous parts of mill-gearing, machinery vats, pans, caldrons, reservoirs, wheel races, flumes, water channels, doors, opening in the floors or walls, bridges, and all other like dangerous structures or places, shall be as far as practicable securely guarded.

(b) No machinery other than steam engines shall be cleaned while in motion if the inspector so directs by written notice.

(c) The openings of every hoistway, hatchway, elevator or well-hole shall be at each floor provided with and protected by good and sufficient trap-doors or self-closing hatches and safety hatches, or by such other safeguards as the inspector directs, and such trap-doors shall be kept closed at all times except when in actual use by persons authorized by the employer to use the same.

(d) All elevator cabs or cars, whether used for freight or passengers shall be provided with some suitable mechanical device to be approved by the inspector, whereby the cab or car will be securely held in the event of accident to the shipper, rope or hoisting machinery, or from any similar cause.

(e) Any other particulars which any inspector from time to time considers dangerous, and in regard to which he gives notice to that effect to the employer, shall likewise as far as practicable be secured or securely guarded.

(2) Without in any way restricting the general application of the foregoing, the following additional provisions shall apply to brass, iron and steel foundries, hereinafter referred to as foundries:—

(a) all passageways in foundries shall be constructed and maintained of sufficient width to make the use thereof by employees safe; during the process of casting, such passageways shall not be obstructed in any manner;

(b) The flask, moulding machines, ladles, cranes and apparatus for transporting molten metal in foundries shall be maintained in proper condition and repair, and any such tools or implements that are defective shall not be used until properly repaired. There shall be in every foundry, available for immediate use, an ample supply of lime water, olive oil, vaseline, bandages and absorbent cotton, to meet the needs of workmen in case of burns or other accidents; any other equally efficacious remedy for burns may be substituted for those herein prescribed. 1915, c. 27, s. 2.

(3) A factory in which there is a contravention of this section or of the regulations made for the enforcement of this section shall be deemed to be kept unlawfully, and so that the safety of any person employed therein is endangered. 1915, c. 27, s. 3.

21. (1) A young girl or woman shall not be allowed to clean such part of the machinery in a factory as is mill-gearing, while the same is in motion, for the purpose of propelling any part of the manufacturing machinery.

(2) A young girl shall not be allowed to work between the fixed and traversing part of any self-acting machine while the machine is in motion by the action of steam, water or other mechanical power.

(3) A young girl or woman allowed by an employer to clean or to work in contravention of this section, shall be deemed to be employed by him contrary to the provisions of this Act, and to have contravened such provisions.

## 22. (1) In every factory—

(a) There shall be such means of extinguishing fire as the inspector, acting under the regulations made in that behalf, directs in writing;

(b) The main inside and outside doors shall open outwardly, and any door leading to or being the principal or main entrance to the factory or to any tower, stairway or fire-escapes therein or belonging thereto, shall not be bolted, barred or locked at any time during the ordinary and usual working hours in the factory.

(2) In the case of factories over two stories in height there shall be provided in every room which is above the ground floor, or in so many of the rooms above the ground floor as the inspector in writing certifies to be in his judgment sufficient, a wire or other rope for every window in the room, or for as many windows in the room as the inspector certifies in writing to be sufficient.

(3) Every such rope shall not be less than three quarters of an inch in thickness, and of sufficient length to reach from the room in which it is kept to the ground below; and every such window of every room shall be provided with proper, convenient and secure fastenings and appurtenances to which one end of the rope may be safely secured or fastened, and the said wire or other ropes shall be kept in a coil or other convenient position in the room.

(4) Every factory three or more stories in height in which persons are employed above the second story, unless supplied with a sufficient number of tower stairways with iron doors; shall be provided with a sufficient number of fire-escapes; such fire-escapes shall consist of an iron stairway with a suitable railing, and shall be connected with the interior of the building by iron doors or windows, with iron shutters, and shall have suitable landings at every story above the first, including the attic, if the attic is occupied

as a workroom, and such fire-escapes shall be kept in good repair and free from obstruction or incumbrance of any kind; but any of the requirements of this subsection may be dispensed within any factory if the inspector so directs.

(5) A factory or workshop in which there is a contravention of this section shall be deemed to be kept unlawfully and so that the safety of any person employed therein is endangered.

23. Where in a factory the owner or hirer of a machine or implement moved by steam, water or other mechanical power, in or about or in connection with which machine or implement young girls or women are employed, is some person other than the employer as defined by this Act, and such young girls or women are in the employment and pay of the owner or hirer of such machine or implement, in any such case, such owner or hirer shall, so far as respects any offence against this Act, which may be committed in relation to such young girls or women, be deemed to be the employer.

24. In case of a fire or accident in any factory occasioning any bodily injury to any person employed therein, whereby he is prevented from working for more than six days next after the fire or accident, a notice shall be sent to the inspector in writing by the employer forthwith after the expiration of the said six days, and if such notice is not so sent the employer shall be liable to a penalty not exceeding thirty dollars.

25. In case of any explosion occurring in a factory, whether any person is injured thereby or not, the fact of such an explosion having occurred shall be reported to the inspector in writing by the employer within twenty-four hours next after the explosion takes place. And if such notice is not so sent, the employer shall be liable to a penalty not exceeding thirty dollars.

26. (1) Where in a factory any person is killed from any cause, or is injured from any cause in a manner likely to prove fatal, written notice of the accident shall be sent to the inspector within twenty-four hours after the occurrence thereof, and if such notice is not sent, the employer shall be liable to a penalty not exceeding thirty dollars.

(2) A notice under this section or under the next two preceding sections may be in the form "B" in the schedule or to the like effect.

#### Inspection.

27. The Governor in Council may from time to time for the purpose of carrying out this Act,—

(1) Make such rules, regulations and orders for enforcing its provisions, and for the conduct and duties of the inspector, as may be deemed necessary.

(2) Appoint one or more inspectors, who shall be paid such salary or compensation as the Governor in Council determines.

(3) Designate and assign in the order appointing any inspector, the locality in and for which he is to be the inspector under this Act.

28. The Governor in Council may from time to time appoint a female inspector for the purpose of carrying out this Act, in addition to the other inspectors by law directed.

29. (1) The inspector shall for the purposes of the execution of this Act, and for enforcing the regulations made under the authority thereof, have power to do all or any of the following things, namely:

(a) To enter, inspect and examine at all reasonable times by day or night any factory and any part thereof when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe to be a factory;

(b) To require the production of any register, certificate notice or document required by this Act to be kept, and to inspect, examine and copy the same;

(c) To take with him in either case a constable into a factory in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty.

(d) To make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are complied with so far as respects the factory and the persons employed therein;

(e) To examine either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, every person whom he finds in the factory, or whom he has reasonable cause to believe to be, or to have been, within the two preceding months employed in a factory, and to require such person to be so examined, and to sign a declaration of the truth of the matters respecting which he is so examined;

(f) For the purposes of any investigation, inquiry made by him under the authority of this Act, to administer an oath to and to summon any person to give evidence;

(g) To exercise such other powers as may be necessary for carrying this Act into effect.

(2) The employers and his agents and servants, shall furnish the means required by the inspector as necessary for an entry, inspection, examination, inquiry, or the exercise of his powers under this Act in relation to such factory.

30. (1) The inspector before entering, in pursuance of the powers conferred by this Act, without the consent of the occupier any room or place actually used as a dwelling as well as for a factory, shall on an affidavit or statutory declaration of facts and reasons, obtain written authority to do so from the Governor in Council, or such warrant as is hereinafter mentioned from a justice of the peace or police magistrate.

(2) A justice of the peace or stipendiary magistrate, if satisfied by information on oath that there is reasonable cause to suppose that any enactment of this Act is contravened in any such room or place as aforesaid, may in his discretion grant a warrant under his hand, authorizing the inspector named therein, at any time within the period named therein, but not exceeding one month from the date thereof, to enter, in pursuance of this Act, the room or place named in the warrant, and exercise therein the powers of inspection and examinations conferred by this Act; and the fines and provisions of this Act with respect to obstruction of the inspector shall apply accordingly.

31. Every inspector under this Act shall be furnished with a formal certificate of his appointment under the hand and seal of the provincial secretary, and on applying for admission to a factory, shall, if required, produce to the employer the said certificate.

32. (1) Every person who—

(a) Wilfully delays the inspector in the exercise of any power under this Act; or

(b) Who fails to comply with a requisition or summons of the inspector in pursuance of this Act, or to produce any certificate or document which he is required by or in pursuance of this Act to produce; or

(c) Who conceals or prevents a child, young girl or woman from appearing before or being examined by the inspector, or attempts so to conceal or prevent a child, young girl or woman;

shall be deemed to obstruct an inspector in the execution of his duties under this Act; but no one shall be required under this section to answer any question or to give any evidence tending to criminate himself.

(2) Every person who obstructs an inspector in the discharge of his duties under this Act shall be liable to a penalty not exceeding one hundred dollars, and in default of payment to imprisonment not exceeding three months.

33. Such annual or other report of the inspector as the Governor in Council from time to time directs shall be laid before the Legislature.

#### Miscellaneous.

34. (1) Every person shall within one month after he begins to occupy a factory serve on the inspector a written notice containing the name of the factory, the place where it is situated, the address to which he desires his letters to be addressed, the nature of the work, the nature and amount of the moving power therein, and the name of the firm under which the business of the factory is to be carried on, and in default shall be liable to a penalty not exceeding thirty dollars. Such notice may be in the form "C" in the schedule to this Act.

(2) In every factory the employer shall keep, in the form and with the particulars prescribed by any regulations made by the Governor in Council in that behalf, a register of the children, young girls and women employed in that factory, and of their employment, and of other matters under this Act; and shall send to the inspector such extracts from any register kept in pursuance of this Act as the inspector from time to time requires for the execution of his duties under this Act, and in default thereof such employer shall be liable to a penalty not exceeding thirty dollars. Such register may be in the form "D" in the schedule to this Act.

35. (1) Any notice, order, requisition, summons and document under this Act may be in writing or print, or partly in writing and partly in print.

(2) Any notice, order, requisition, summons and document required or authorized to be served or sent for the purposes of this Act, may be served and sent by delivering the same to or at the residence of the person on or to whom it is to be served or sent, or, where that person is an employer within the meaning of this Act, by delivering the same, or a true copy thereof, to his agent, or to some person in the factory of which he is employer; it may be also served or sent by post by a prepaid letter, and if served or sent by post shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

(3) In proving such service or sending, it shall be sufficient to prove that it was properly addressed and put into the post; and where it is required to be served on or sent to an employer it shall be deemed to be properly addressed if addressed to him at the factory in respect of which he is employer, with the addition of the proper postal address, but without naming the person who is the employer.

36. Every person who—

(a) Wilfully makes any false entry or statement in any register, notice, certificate or document required by this Act; or



(b) Wilfully makes use of any such false entry or declaration, shall be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a period not exceeding six months. 1912, c. 56, s. 2.

37. (1) There shall be posted up at each entrance of a factory and in such other parts thereof as the inspector directs, and be kept constantly so posted up, in such position as to be easily read by the persons employed in the factory—

(a) Notice of the hours during which children, young girls and women may be employed, and of such other provisions of this Act and of any regulations made thereunder as the inspector deems necessary to enable the persons employed in the factory to become acquainted with their rights, liabilities and duties under this Act.

(b) The name and address of the inspector.

(c) A notice of the clock [if any] by which the period of employment and times for meals in the factory are regulated.

(d) Every other notice or document [if any] required by this Act or any regulation made thereunder to be posted up in the factory.

(2) The notice required by this section may be in the form "A" in the schedule to this Act or to the like effect.

(3) Every employer who contravenes or fails to comply with the requirements of this section shall for each such offence be liable to a penalty not exceeding one hundred dollars, and in default of payment to imprisonment not exceeding three months.

#### Penalties and Proceedings.

38. The parent of any child or young girl employed in a factory in contravention of this Act, shall unless such employment is without the consent, connivance or wilful default of such parent, be guilty of an offence in contravention of this Act, and shall for each offence be liable to a penalty of not more than fifty dollars and costs of prosecution, and in default of immediate payment of such fine and costs to imprisonment for a period not exceeding three months.

39. Every employer or other person who contravenes or fails to comply with any provision of this Act or of any regulation, rule or order made under the authority thereof by the Governor in Council in respect to which no penalty is specifically provided, shall for each such offence be liable to a penalty not exceeding fifty dollars, and in default of payment to imprisonment for a period not exceeding three months.

40. If a factory is not kept in conformity with this Act, the court, in addition to, or instead of inflicting a fine, penalty or other punishment upon the employer may order certain means to be adopted by the employer, within the time named in the order, for the purpose of bringing his factory into conformity with the Act; the court may also upon application enlarge the time so named, but if, after the expiration of the time as originally named or enlarged by subsequent order, the order is not complied with, the employer shall be liable to a penalty not exceeding ten dollars for every day that such noncompliance continues.

41. Where the employer is charged with an offence against this Act, he shall be entitled upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court or tribunal at the time appointed for hearing the charge; and if after the commission of the offence has been proved, the employer proves to the satisfaction of the court that he had used due diligence to enforce the execution of the Act, and that the said other person had committed the offence in question without the knowledge, consent or connivance of him, the employer, the said other person, shall be summarily convicted of such offence, and the employer shall be exempt from any fine, penalty or punishment.

42. Where it is made to appear to the satisfaction of the inspector at the time of discovering the offence;

(a) That the employer has used all due diligence to enforce the execution of this Act; and

(b) By what person such offence was committed, and

(c) That it was committed without the knowledge, consent or connivance of the employer and in contravention of his orders; the inspector shall proceed against the person whom he believes to be the actual offender in the first instance, without first proceeding against the employer.

43. Where an offence for which an employer is liable under this Act, to a penalty has in fact been committed by some agent, servant, workman or other person, such agent, servant, workman or other person shall be liable to the same penalty for such offence as if he were employer.

44. A person shall not be liable in respect to a repetition of the same kind of offence from day to day to any larger penalty than the highest penalty fixed by this Act for the offence except:

(1) Where the repetition of the offence occurs after an information has been laid for the previous offence, or



(2) Where the offence is one of employing two or more children, young girls or women, contrary to the provisions of this Act.

45. All money or penalties in money imposed or recovered under or in pursuance of this Act, shall be paid by the convicting justices or stipendiary magistrate, as the case may be to the inspector, who shall forthwith pay the same over to the treasurer of the province to and for the use of the province.

46. The following provisions shall have effect with respect to summary proceedings for penalties under this Act:

(1) The information shall be laid within two months, or, where the offence is punishable at discretion by imprisonment, within three months after the offence has come to the knowledge of the inspector.

(2) The description of an offence in the words of this Act, or in similar words shall be sufficient in law.

(3) Any exception, exemption, proviso, excuse or qualification whether it does or does not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information, and if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant.

(4) It shall be sufficient to allege that the factory is a factory within the meaning of this Act without more.

(5) It shall be sufficient to state the name of the ostensible employer, or the title of the firm by which the employer employing persons in the factory is usually known.

#### SCHEDULE.

##### Form B [section 26].

To .....

(Factories inspector.)

You are hereby notified pursuant to section 24 (or as the case may be) of the Nova Scotia Factories Act, of the happening of an accident in the factory hereunder mentioned, whereof the following are particulars.

1. Name of person injured (or killed).
2. Factory in which accident happened.
3. Date of accident.
4. Age of person injured (or killed).
5. Residing on..... street in the .....of .....
6. Cause of injury (or death).
7. Extent of injury.
8. Where injured or killed person sent.
9. Remarks.

Dated this.....day of .....

(Signature of employer or agent).....

(Forms A, C, D, E and F omitted.)

#### STATUTES OF 1902.

##### Hours of Labour in Halifax Shops.

Chapter 43 with amendment.—1. This Act may be cited as "The Halifax Early Closing Act."

2. In this Act and in any ordinance passed under the provisions of this Act, unless the context otherwise requires, the expression "shop," means any building or portion of a building, booth, stall, or place, where goods are exposed or offered for sale, wholesale or retail.

The expression "closed" means not open for the serving of any customers; provided that nothing in this Act or in any ordinance passed under its provisions, shall be deemed to render unlawful the continuance in a shop after the hour appointed for the closing thereof of any customers who were in the shop immediately before that hour, or the serving of such customers during their continuance therein.

The expression "city" means the city of Halifax.

The expression "council" means the city council of the city of Halifax.

3. Neither this Act, nor any ordinance passed under the provisions of this Act, shall apply where the trade or business carried on in any shop is solely that of a druggist, chemist, barber, tobacconist, hotel, inn, tavern, restaurant or refreshment house, confectioner, fruit dealer, ice cream parlor, news agent, or news dealer (who sells nothing but papers and magazines), nor to any premises wherein under license spirituous or fermented liquor only is sold.

(2) The provisions of this Act, and of any ordinance passed under the provisions of this Act, shall apply to auction sales, and bankrupt or removal sales, whether by retail or by public auction.

(3) Nothing in this Act, nor any ordinance passed under the provisions of this Act, shall render the occupier of a shop liable to any penalty or imprisonment for supplying any article required for immediate use by reason or because of any emergency arising from sickness, ailment, or death; but nothing herein contained shall be deemed to authorize any person whomsoever to keep open shop after the hour appointed by this Act for the closing of shops."

4. Any of the persons occupying shops in the city may present a petition to the council praying that an ordinance be passed directing that every shop occupied by any person within the city engaged in trade in a particular class or particular classes of merchandise, mentioned in the petition, shall be closed on Tuesday, Wednesday and Thursday of each week, except an evening preceding a holiday, at the hour of six-thirty of the clock, and shall be kept closed until five of the clock on the morning of the following day. Nothing in this Act contained shall require any persons occupying shops in the city of Halifax to close such shops as required by the provisions of this Act during the month of December in any year. 1903, c. 79, s. 1.

5. Every such petition shall be signed by not less than two-thirds of the persons engaged in the particular class of trade specified, and who were at the last assessment for the city assessed in respect to merchandise, excepting grocery shops which are assessed for four hundred dollars and under, to which this Act and any ordinance passed under the provisions of this Act shall not apply.

6. (1) Any person signing any such petition shall state opposite his signature the street and number of the shop or store occupied by him, and the trade in which he is engaged, and if he is engaged in more than one class of trade, the principal one of such trades.

(2) If a petition is delivered to the city clerk or his assistant, it shall be deemed to have been presented to the council, and the clerk shall lay such petition before the council at its next meeting.

7. Upon the receipt of any such petition the council shall refer the question as to whether the petition has been signed by the requisite two-thirds of the persons affected thereby to the city assessors, who shall report to the council thereon within three weeks.

8. Upon being satisfied that the petition has been signed by the requisite two-thirds of the persons to be affected, the council shall pass an ordinance as therein prayed for, or in respect to the shops engaged in the trade or trades specified in the petition, and in respect to which two-thirds of the persons affected have signed the petition.

9. If more than one trade is specified in the petition the ordinance shall specify those trades only in respect to which the requisite two-thirds of the persons affected have signed the petition, but the fact that in respect to one or more of the trades specified in the petition, the requisite number of signatures have not been obtained, shall not prevent the council passing an ordinance in relation to the trade or trades in respect to which the requisite number of persons have signed.

10. A shop in which trades in two or more classes of merchandise are carried on, one of which is specified in any ordinance passed under this Act, shall be closed for the purpose of all such trades at the times and hours at which it is by any such ordinance required to be closed.

11. Every such ordinance shall take effect at a date named herein, being not less than one nor more than two weeks after the passing thereof, and shall before that date be published in such manner as to the council appears best suited to insure the publicity thereof.

12. The council shall not have the power to repeal an ordinance passed under the provisions of this Act except as hereinafter provided.

13. If at any time it is made to appear to the satisfaction of the council that more than two-thirds in number of the occupiers of shops to which an ordinance passed under the provisions of this Act relates, or of any class of such shops, are opposed to the continuance of such ordinance or the part thereof referring to such class, the council may repeal the said ordinance, or may repeal the same in so far as it affects such class of shops as aforesaid, but any such repeal shall not affect the power of the council thereafter to pass another ordinance under the provisions of this Act.

14. Any person who violates any of the provisions of this Act or of any ordinance passed under the provisions of this Act, shall for each such offence be liable to a penalty of not less than one nor more than twenty dollars, or in default of payment to imprisonment for one day for each dollar of the penalty imposed.

15. In any prosecution for an offence against this Act or any ordinance passed under its provisions the burden of proving that a petition in compliance with this Act

was not presented to the council by the requisite number of the occupiers of the shops or the class of shops required to be closed by an ordinance passed, or purporting to be passed, under the provisions of this Act, shall in all cases, and for all purposes, be upon the person asserting that such petition was not so presented.

16. When an offence for which the occupier of a shop is liable under this Act, or any ordinance passed under its provisions, to any penalty, has in fact been committed by some agent or servant of such occupier, such agent or servant shall, as well as the occupier, be liable to the same penalty as if he were the occupier.

17. Where the occupier of a shop is charged with an offence against any ordinance, he shall be entitled upon information duly laid by him, to have any other person whom he charges to be the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the said occupier proves to the satisfaction of the court that he has used due diligence to enforce the execution of the provisions of the ordinance, and that the said other person committed the offence in question without his knowledge, consent or connivance, or wilful neglect or default, the said occupier shall be exempt from any penalty; but the said other person may thereupon be summarily convicted of such offence, and shall be liable to the same penalty therefor as if he were the occupier.

18. All penalties imposed or recovered under or in pursuance of this Act, or any ordinance passed under this Act, shall be paid into the city clerk for the city of Halifax.

19. All prosecutions under this Act, or any ordinance passed under the provisions of this Act, shall be heard before the stipendiary magistrate in and for the city of Halifax.

20. Chapter 29 of the Acts of 1896 and Acts in amendment thereof are repealed.

## STATUTES OF 1903.

### Wages as Preferred Claims—In Executions.

Chapter 14 with amendment.—24. (1) Where the amount levied by the sheriff is not sufficient to pay the execution debts and other claims with costs in full, the money shall be applied, after retaining the sheriff's fees and after payment in full of the taxed costs and the costs of the execution, to the creditor at whose instance and under whose execution seizure and levy were made, to the paying in priority to all other claims the wages or salaries of all persons in the employment of the execution debtor at the time of the levy or within one month before the making of the levy, not exceeding three months' wages or salary, and such persons shall be entitled to rank rateably with other creditors for the residue, if any, of their claims. If, however, there be not sufficient money, after paying the costs and fees as hereinbefore provided, to pay in full said privileged claim for wages or salaries, such claims shall be paid rateably. After the payment of the sheriff's fees, and the taxed costs and the costs of the execution and of said privileged claims for wages or salaries as herein provided, then the balance, if any, of the moneys in the hands of the sheriff shall be applied to the payment, rateably, of all other debts and costs of the creditors who have complied with the provisions of this Act. 1914, c. 42, s. 1.

### Industrial Disputes—Arbitration and Conciliation.

Chapter 37.—1. (1) Any board which is constituted for the purpose of settling disputes between employers and workmen by conciliation or arbitration, or any association or body authorized by an agreement in writing made between employers and workmen to deal with such disputes (in this Act referred to as a conciliation board), may apply to the provincial secretary for registration under this Act.

(2) The application must be accompanied by copies of the rules and regulations of the conciliation board, with such other information as the provincial secretary may reasonably require.

(3) The provincial secretary shall keep a register of conciliation boards, and enter therein with respect to each registered board, its name and principal office, and such other particulars as the provincial secretary may think expedient, and any registered conciliation board shall be entitled to have its name removed from the register on sending to the provincial secretary a written application to that effect.

(4) Every registered conciliation board shall furnish such returns, reports of its proceedings, and other documents, as the provincial secretary may require.

(5) The provincial secretary may, on being satisfied that a registered conciliation board has ceased to exist or to act, remove its name from the register.

(6) Subject to any agreement to the contrary, proceedings for conciliation before a registered conciliation board shall be conducted in accordance with the regulations of the board in that behalf.

2. (1) Where a difference exists or is apprehended between an employer, or any class of employers, and workmen, or between different classes of workmen, the provincial secretary may, if he thinks fit, exercise all or any of the following powers, namely:

(a) To cause an inquiry to be made into the causes and circumstances of the difference;

(b) Take such steps as the Provincial Secretary may deem expedient for the purpose of enabling the parties to the difference to meet together, by themselves or their representatives, under the presidency of a chairman, mutually agreed upon or nominated by the Provincial Secretary or by some other person or body, with a view to the amicable settlement of the difference.

(c) On the application of the employers or workmen interested, and after taking into consideration the existence and adequacy of means available for conciliation in the district or trade and the circumstances of the case, appoint a person or persons to act as conciliator or a board of conciliation;

(d) On the application of both parties to the difference appoint an arbitrator.

(2) If any person is so appointed to act as conciliator he shall inquire into the causes and circumstances of the difference by communication with the parties, and otherwise shall endeavour to bring about a settlement of the difference, and shall report his proceedings to the Provincial Secretary.

(3) If a settlement of the difference is effected, either by conciliation or arbitration, a memorandum of the terms thereof shall be drawn up and signed by the parties or their representatives, and a copy thereof shall be delivered to and kept by the Provincial Secretary.

3. If it appears to the Provincial Secretary that in any district or trade adequate means do not exist for having disputes submitted to a conciliation board for the district or trade, he may appoint any person or persons to inquire into the conditions of the district or trade, and confer with the employers and employed, and if the Provincial Secretary thinks fit, with any local authority or body, as to the expediency of establishing a conciliation board for the district or trade.

4. A board of conciliation shall consist of three members nominated by the employers, and three by the workmen. Each party shall send to the other within one week from January 1 in each year the names of six persons, from whom three shall be selected to act as their representatives on the board of conciliation for the current year, ending December 31, and in the event of death or resignation of any member, either party shall appoint another member within one week, notice being given thereof. The number of representatives of the employers and of the workmen on a board of conciliation shall always be equal, and shall be so maintained during all sittings.

5. A board of conciliation so constituted, if unable to agree, shall make application to the Provincial Secretary for the appointment of a person to act as arbitrator.

6. Boards of conciliation shall have power to decide all questions arising between the employer and the workmen, including any questions between one trade and another as regards demarcation of labour, or other matters, provided that for the decision of any question involving claims or rights of other sections of the building or other trades a joint conciliation board shall be constituted of the three representatives nominated by each trade involved, and by a similar number of representatives of the employers, so that members on the joint conciliation board may be specially represented on such board, and so that the number of representatives of the employers and of the workmen on such joint conciliation board shall be equal and so maintained during the sitting.

7. A joint conciliation board shall have the like powers as the conciliation board and be regulated in the same manner.

8. A conciliation board or a joint conciliation board shall have power to make such rules and regulations for the transaction of business as they may approve.

9. Upon a difference arising between an employer and any of his workmen, or upon the works of an employer, from any cause whatever, the subject matter of dispute shall be referred to the board of conciliation, which shall be summoned within seven days, and, if practicable, shall give its decision within the next six working days.

10. In the event of an application being made to the Provincial Secretary, or a person being appointed as arbitrator, the decision of such person, or the conciliation board shall be final and binding on both parties.

11. The Provincial Secretary shall from time to time present to the legislature a report of his proceedings under this Act.

12. This Act may be cited as the Conciliation Act, 1903.

## STATUTES OF 1906.

## Prison Labour.

Chapter 41.—2. When any person is committed to any jail under a commitment requiring hard labour such hard labour may be performed either in the jail, the jail yard or any part of the jail limits, or in any place within the county in which such jail is situated.

4. The council of any municipality may make by-laws and regulations for the proper enforcement and carrying out of commitments requiring hard labour in the jail, the jail yard or within the county in which such jail is situated.

5. The sheriff shall at any and all times, on the written order of the warden of the municipality or the chairman of any committee appointed in relation to hard labour sentences, or any person designated by the municipal council, deliver to any person named in such order, any person in his custody who is committed to jail to suffer imprisonment with hard labour, for the purpose of performing such hard labour, and the sheriff shall not be liable for the escape of any person while engaged in the performance of such hard labour without the jail.

## STATUTES OF 1907.

## Vocational Training—Technical Schools—Schools for Miners.

Chapter 1 with amendment.—1. This Act may be cited as "The Technical Education Act."

## Director of Technical Education.

2. (1) The Governor in Council may appoint a person to be Director of Technical Education, who shall be an officer of the Council of Public Instruction, and shall be paid such annual salary (and receive such allowances) as the Governor in Council determines.

(2) The Council of Public Instruction shall, upon the recommendation of the Director, provide the Director with such assistants as may be found necessary, and shall define their duties and fix the salaries they shall receive.

3. The duties of the Director of Technical Education shall be as follows:—

(a) To exercise general supervision over the conduct and management of all schools established or carried on under the provisions of this Act:

(b) To report to and advise the Council as to all matters relating to engineering, mining and industrial education;

(c) To promote the establishment and efficiency of local technical schools and other schools under his supervision;

(d) To report annually to the Legislature on the state of technical education in the province, and as to the condition and efficiency of the schools under his supervision, with detailed accounts of the expenditure of the moneys appropriated for the support of the same;

(e) Such other duties as the Council of Public Instruction from time to time prescribes.

4. The Governor in Council, on behalf of the province, may accept, take, hold and administer any gifts, bequests, or devises of real or personal property of every kind which may be made for the furtherance of any of the objects of this Act.

## Local Technical Schools.

13. The Governor in Council may from time to time establish, in such places as it may be deemed advisable, local technical schools to furnish industrial education of such character and extent as will most effectively meet the requirements of the population and industries of the locality.

14. No such local technical school shall be established until the necessity or desirability thereof, the amount of local aid to be furnished, the facilities which can be afforded and the advantages to be derived have been reported upon by the director of technical education, and he has recommended the establishment of such school.

15. (1) The council of public instruction may make such rules and regulations as they deem advisable for the support, conduct and management of the school.

(2) Subject to such regulations the Council may associate the board of school commissioners of the place in which the school is established, or a committee thereof, or any other person or persons with the director in the management of any local technical school.

16. The council of public instruction shall, upon the recommendation of the director, appoint such instructors as may be required for the carrying on of such schools and shall fix their salaries.

17. Such sums as may be required in addition to the local aid provided, for the establishment and maintenance of the local technical schools shall be paid out of the provincial treasury.

17a. The council of any city, town or municipality may grant such amount as is deemed expedient towards the support of a local technical school, and may include such amount in the annual estimates, and such amount shall be rated and collected annually in the same manner and with the same remedies as other rates and taxes. 1908, c. 66, s. 1.

#### Schools for Miners.

18. The schools of instruction for miners established under the provisions of chapter 22 of the Revised Statutes, 1900, "Of Schools of Instruction for Miners," are hereby continued and hereafter the establishment and maintenance of such schools shall be under the direction of the council of public instruction.

19. Such schools shall be for the purpose of instructing persons who wish to prepare themselves to undergo examination by the board of examiners for the purpose of obtaining certificates of competency as underground managers or overmen or stationary engineers, under the provisions of "The Coal Mines' Regulation Act," and amendments thereto.

20. All such schools shall be under the supervision and control of the director of technical education.

21. (1) The instructors in such schools shall be appointed by the council of public instruction upon the recommendation of the director.

(2) Such instructors shall be paid such salaries as the council determines.

22. No teacher in any such school shall take from any intending candidate any fee for the instruction given by him: provided however, that this provision shall not apply in the case of any person desiring instruction but not contemplating examination for a certificate.

23. No fee shall be charged by the board of examiners to candidates who have been prepared at any school established or continued under the authority of this Act.

24. All expenditure necessary for the establishment and maintenance of said schools, including buildings, rent, apparatus, instruments, instruction, fuel, light, and incidental expenses shall be defrayed out of the provincial treasury on the certificate of the director of technical education.

25. The council of public instruction may from time to time make such regulations as are necessary or expedient for the conduct and management of said schools, and may amend or repeal the same.

26. Chapter 22 of the Revised Statutes, 1900, "Of Schools of Instruction for Miners," is repealed.

#### STATUTES OF 1908.

#### Miners' Relief Societies.

Chapter 2. [Not yet in force].—1. Every person employed in or about the coal mines of Nova Scotia, and in connection with the works incidental thereto, and every person who may hereafter be so employed shall, by reason of such employment, be and become a member of "The Nova Scotia Colliery Workers' Provident Society" hereinafter called "The Society," which is hereby constituted a body corporate under said name: Provided, however, that any person becoming a member of this Society, after the coming into force of this Act, suffering from chronic disease or the recurring effects of injuries received, may be excluded from membership in the society or any branch society formed hereunder.

2. When or so soon as thirty persons are employed in any coal mine, and in connection with the works incidental thereto, a Branch of such Society shall be formed to be known as "The Nova Scotia Colliery Workers' Provident Society" (name of mine) Branch.

3. There shall be a board to be known as "The Nova Scotia Colliery Workers' Provident Society and Old Age Pension Board," hereinafter called "The Board," which shall consist of the following persons:—

The Commissioner of Works and Mines, who shall be Chairman; the Provincial Treasurer, who shall be Treasurer; the Deputy Commissioner of Works and Mines, who shall be Secretary. One person to be appointed annually by an official in the employ of the coal mine owners, or if they fail to appoint such person, then such person shall be appointed by the Governor in Council from among such mine owners; and two persons to be appointed for a term of three years by the Branch Societies hereinbefore referred to. The Board shall meet at such times as it may appoint in the City

of Halifax, and the members shall receive such remuneration for their services as the Governor in Council may determine.

4. Such Board shall have power to make all necessary regulations and orders for the organization, administration and government of such Society and the Branches thereof, and for a scheme providing old age and total disability pensions for the members thereof, which regulations having been approved by the Governor in Council, shall have the force of law, and particularly, but not so as to limit the general powers hereinbefore conferred, the Board shall have power to make regulations and orders touching the following subjects:—

(a) Providing a constitution for such Branch Societies.

(b) Appointing all necessary officers to inspect the books, affairs and administration of such Branch Societies.

(c) Formulating a scheme providing old age and total disability pensions for the members of the Society and determining the sums to be contributed in aid thereof by the members and the coal mine owners.

5. On coming into force of this Act the Board shall forthwith convene in the city of Halifax a Council consisting of one representative from each Branch of the Society for the purpose of electing the two representatives mentioned in paragraph three hereof; and a similar council shall be convened once in three years, in the same place for the same purpose; the outlay for travelling expenses and necessary loss of time of each representative shall be paid by each branch. In addition to the power of appointing such representatives the Council shall have the right to suggest to the Board a revision of the Branch Constitution and changes in the regulations for the Old Age Pension Fund.

6. The Board shall act as custodian of all funds in excess of the sum of one thousand dollars in the hands of any Branch, and so that at no time shall any Branch have more than the sum of one thousand dollars in its possession, and such sums shall be kept intact to the credit of each Branch, and may by the Board be invested in the securities authorized by law for the investment of trust funds.

7. The owner of every coal mine shall without any order retain the monthly dues payable to the Branch by every member thereof, and shall pay over to the proper officer of such Branch the amounts so retained, or if no Branch is organized he shall remit the same to the Treasurer of the Board. The owner shall also, without any order, retain the monthly contribution payable by each member to the Pension Fund, and remit the same to the Treasurer of the Board. No fee or allowance whatsoever shall be due or payable to any owner or employee of such owner for such retention or paying over of the said dues.

8. The financial and other affairs of each Branch Society shall be managed by a committee to consist of seven persons, four of whom shall be appointed by the members at their annual meeting, one person to be nominated by the owner, and two persons to be nominated by the Board. The committee shall from their number appoint all necessary officers for the transaction of the business of the Branch, and shall in all matters be subject to the constitution and to the regulations of the Board.

9. The Governor in Council may annually pay to the Treasurer of the Board, or if a Branch Society is established, to the Treasurer of such Branch, a sum not in excess of twelve and one-half cents per month for each member, and such sums shall be payable quarterly, provided that the sum or sums so paid shall not in the aggregate exceed in any year eighteen thousand dollars. The Governor in Council may also annually pay to the Treasurer of the Board a sum not in excess of twelve and one-half cents per month for each member in aid of an old age pension and total disability provision for the members of the Society, such sum to be payable quarterly, provided that such sum shall not in any year exceed eighteen thousand dollars.

10. (1) The owner of every coal mine shall pay to the Treasurer of the Branch Society organized in connection with such mine, the sum of six and one-half cents per month for each member, and such owner shall also on or before the 1st day of October in each year pay to the Treasurer of the Board in aid of the Old Age Pension Fund the sum of seventy-five cents for each member.

(2) Where at any coal mine less than thirty persons are employed, the owners thereof shall be exempted from payment of the contribution to the Society hereinbefore mentioned; provided, however, that the Board shall have power to appoint any agent or representative at such mine with such powers as to the Board may seem proper.

11. The Board shall forthwith establish an Emergency Fund for the purpose of enabling special aid to be granted in cases of serious disaster at any coal mine, or in such special cases as to the Board may seem reasonable. The Board are hereby authorized to pay and apply to such Emergency Fund the sum of ten per centum of all surplus funds deposited with the Board as aforesaid. The Treasurer of each Branch Society shall annually on or before the first day of October in each year remit to the Treasurer of the Board the sum of thirty cents per capita for each member, which sums shall by the Board be paid and applied to the Emergency Fund. The Governor in



Council may also annually pay to the Treasurer of the Board in aid of the said Emergency Fund a sum not in excess of two thousand dollars.

12. So soon as the said Emergency Fund with accumulated interest amounts to Fifty Thousand Dollars, it shall be available for the support of the widows of members of the Society in accordance with regulations to be framed by the Board; and when and so soon as said Emergency Fund with accumulated interest amounts to One Hundred Thousand Dollars, it shall be available for the support of the children of deceased members, in accordance with regulations to be framed by the Board.

13. The Relief given by any Society or Fund established under authority of this Chapter, whether to persons injured, or to children or other dependent relations, shall be exempt from attachment and from levy under execution for debt of any kind.

14. Nothing in this Chapter shall affect the liability of any persons or corporation for damages resulting from any wrongful act, neglect or default.

15. Sections 1 to 16, both inclusive, of this Act shall come into force when and so soon as proclaimed by the Governor in Council by publication in the "Royal Gazette," and when and so soon as this Act is proclaimed, Chapter 23 of the Revised Statutes, 1900, is repealed, and all contracts made thereunder shall cease and have no further operation.<sup>1</sup>

16. Notwithstanding the repeal of Chapter 23, Revised Statutes, the assets, contracts, liabilities and obligations of each Relief Society organized in accordance with the provisions of said Chapter, shall continue to be the assets, contracts, liabilities and obligations of the Branch organized in substitution therefor.

17. All contracts or agreements made under Chapter 23 of the Revised Statutes, 1900, "Of Miners' Relief Societies," which are now in force, shall remain in operation until sections 1 to 16, both inclusive, of this Act come into force, unless any of such contracts or agreements are sooner terminated by any of the parties thereto.

#### **Regulation and Inspection of Coal Mines—Examination and Licensing of Engineers.**

Chapter 8 with amendments.—1. This Act may be cited as "The Coal Mines Regulation Act."

##### **Application.**

2. This Act shall apply to mines of coal, mines of stratified iron stone, mines of shale, and mines of fire-clay, whether such minerals are held under lease from the Crown or are the property of the owner of the soil. 1911, c. 31, s. 1.

3. If any question arises (other than in legal proceedings), whether a mine is a mine to which this Chapter, or the Metalliferous Mines Regulation Act applies, the question shall be referred to the Commissioner, whose decision thereon shall be final.

##### **Interpretation.**

4. In this Act, and in any special rules made thereunder, unless the context otherwise requires,—

(a) "Mine" means a mine to which this Chapter applies, and includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven for commencing or opening any mine, or for searching for or proving minerals, and all the shafts, levels, planes, works, machinery, tramways, railways and sidings, both below ground and above ground, in and adjacent to a mine, and any such shaft, level and inclined plane of and belonging to the mine;

(b) "Shaft" includes slope and pit;

(c) "Inclined plane" includes slope;

(d) "Plan" includes a map and section, and a correct copy or tracing of any original plan as so defined;

(e) "Commissioner" means the Commissioner of Public Works and Mines;

(f) "Inspector" means an Inspector of Mines appointed under "The Mines Act."

(g) "Deputy Inspector" means a Deputy Inspector of Mines appointed under "The Mines Act."

(h) "Owner," when used in relation to any mine, means any person or body corporate who is the immediate proprietor, or lessee, or occupier of any mine or of any part thereof, and does not include a person or body corporate who merely receives a royalty or rent from a mine, or is merely the proprietor of a mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor for the working of any mine or any part thereof shall be subject to this Chapter in like manner as if he was an owner, but so as not to exempt the owner from any liability;

(i) "Agent" means any person having on behalf of the owner, the care or direction of any mine or any part thereof;

<sup>1</sup>Sections 1 to 16, both inclusive have not yet been proclaimed.

(j) "Manager" means the chief officer having the control and daily supervision of the mine;

(k) "Underground Manager" means any person who has the daily charge of the underground workings of a mine under the control and daily supervision of the manager;

(l) "Overman" means any person in charge of any mine, or any portion of mine, next under the underground manager.

(m) "Boy" means any male person under the age of eighteen years.

(n) "Shift" means a division of the men or boys, or both, employed in any mine (other than men or boys engaged in attending to the ventilation of the mine) who go to work in the mine at a set period of the day.

(o) "Mine Examiner" means a person who holds a certificate of competency as a mine examiner.

#### Certified Managers and other Officials.

5. (1) Every mine shall be under the control and daily supervision of a manager, and the owner or agent of every mine shall nominate himself or some other person to be the manager of such mine, and shall send a written notice to the Commissioner of the name and address of such manager.

(2) The underground workings of every mine shall be under the daily charge of an underground manager or underground managers, and overman or overmen holding certificates under this Chapter.

(3) A person shall not be qualified to be a manager, underground manager, overman or mine examiner, unless he is the holder of a certificate under this Chapter.

(4) If any mine is worked for more than fourteen days without there being such a manager, underground manager or overman, as is required by this Chapter, the owner or agent of such mine shall each be guilty of an offence against this Chapter. Provided that:

(a) Such owner or agent shall not be guilty of an offence against this Chapter if he proves that he had taken all reasonable means by the enforcement of this section to prevent the mine being worked in contravention thereof; and

(b) If for any reasonable cause there is, for the time being, no manager of a mine qualified as required by this section, the owner or agent of such mine may appoint any person holding a certificate as underground manager, under this Chapter, to be manager for a period not exceeding one month, and notice of such appointment shall be forthwith given to the Commissioner and shall be subject to his approval.

(c) A mine in which less than thirty persons are generally employed underground shall be exempt from the provisions of this Chapter so far as relates to the appointment of a manager, unless the Inspector, by notice in writing, served on the owner or agent, requires the same to be under the control of a manager, but the operations underground shall be under the charge of persons holding certificates as underground managers or overmen under this Chapter, unless permission is given by the Commissioner that the operations underground may be under the charge of one such person.

#### Inquiry into Conduct of Manager.

6. If at any time representation is made to the Commissioner by the Inspector or any other person that any manager, underground manager, overman or mine examiner, holding a certificate under this Chapter, is by reason of incompetency, drunkenness or gross negligence unfit to discharge his duty, or has been convicted of an offence against this Chapter, the Commissioner may, if he thinks fit, inquire into the conduct of such manager, underground manager, overman or mine examiner; and with respect to such inquiry the following provisions shall have effect:

(a) The inquiry shall be public, and shall be held at such place as the Commissioner directs;

(b) The Commissioner shall, before the commencement of the inquiry, furnish the person into whose conduct the inquiry is to be made, with a statement of the case upon which the inquiry is instituted;

(c) The person into whose conduct the inquiry is to be made may attend the inquiry by himself, his solicitor or agent, and may, if he thinks fit, be sworn and examined as a witness in the case;

(d) The Commissioner shall have the power to cancel or suspend the certificate of the person into whose conduct the inquiry has been made if he finds that he is, by reason of incompetency, drunkenness or gross negligence, unfit to discharge his duty, or has been convicted of an offence against this Chapter;

(e) The Commissioner may, if he thinks fit, require the person into whose conduct the inquiry is to be made to deliver up his certificate, and if such person fails without sufficient cause to the satisfaction of the Commissioner to comply with such requisition, he shall be guilty of an offence against this Chapter. The Commissioner shall hold the certificate so delivered up until the conclusion of the inquiry, and shall then either restore, cancel or suspend the same according to his judgment in the case;

(f) The Commissioner may also by summons under his hand require the attendance of all such persons as he thinks fit to call before him and examine for the purpose of the inquiry, and every person so summoned shall be allowed such expenses as would be allowed to a witness attending on a subpoena before the Supreme Court;

(g) The Commissioner may make such order as he thinks fit respecting the costs and expenses of inquiry, and such order shall, on the application of any person entitled to the benefit of the same, be enforced by any court of summary jurisdiction as if such costs and expenses were a penalty imposed by such court;

(h) When a certificate is cancelled or suspended in pursuance of this Chapter, the Commissioner shall cause such cancellation or suspension to be recorded in the register of holders of certificates.

7. The Commissioner may, at any time, if it is shown to him to be just so to do renew or restore on such terms as he thinks fit any certificate which has been cancelled or suspended in pursuance of this Chapter.

8. Whenever any person proves to the satisfaction of the Commissioner that he has, without fault on his part, lost or been deprived of any certificate previously granted to him under this Chapter, the Commissioner shall cause a copy of the certificate to which the applicant appears by the register to be entitled, to be made out and certified by the person who keeps the register and delivered to the applicant, and every copy which purports to be so made and certified shall have all the effects of the original certificate.

9. (1) Certificates of competency for managers, underground managers and overmen shall be issued by the Commissioner upon the report of the Board of Examiners by this Chapter provided for.

(2) Examinations for such certificates shall be held annually. 1912, c. 61, s. 1.

9A. (1) For the purpose of preparing questions for examination for candidates of competency to managers, underground managers and overmen, the Governor in Council may appoint a board that shall prepare all questions upon which candidates for certificates of competency as managers, underground managers and overmen shall be examined. This board shall consist of—

(a) the Inspector of Mines.

(b) two men experienced in coal mining and holding managers' certificates of competency;

(c) one mechanical engineer holding a first-class certificate of competency.

(2) The Commissioner may make such regulations as may be necessary for the proper discharge of the duties to be performed by the board for the preparation of examination papers. 1912, c. 61, s. 2.

10. (1) For the purpose of recommending that certificates of competency be granted to managers, underground managers and overmen, the Governor in Council may appoint a Board of Examiners, who shall examine all papers written by candidates at the annual examination hereafter provided for. No member of the Board of Examiners shall be a member of the Board which prepares questions under the next preceding section.

(2) This board shall consist of—

(a) three managers of mines,

(b) two experienced miners actually engaged in coal mining in Nova Scotia,

(c) two persons to be appointed by the Commissioner, one of whom shall be a mechanical engineer holding a first-class certificate of competency, and

(d) (Repealed by 1914, c. 46, s. 1.)

(3) The Province, for the purpose of holding examinations, shall be divided into four districts, called respectively Cumberland, Pictou, Inverness and Cape Breton districts, the limits whereof shall be defined from time to time by the Commissioner.

(4) The Commissioner shall designate a time and place, public notice of which shall be given, at which candidates for certificates of competency for managers, underground managers and overmen in each district shall present themselves for the purpose of writing answers to examination papers. The time designated by the Commissioner shall be the same for each district throughout the Province, and the regulations to be made by the Commissioner, hereinafter provided for, shall fix the same hour for the holding of the examinations on any particular subject of examination in each of said districts.

(5) The writing of the answers to the questions shall be conducted under the supervision of persons appointed by the Commissioner, who shall, before entering upon such supervision, take and subscribe an oath in the form of the schedule hereto.

(6) The Commissioner is hereby authorized to make such regulations as may be necessary for the proper carrying out of the provisions of this section.<sup>1</sup> 1912, c. 61, s. 3.

<sup>1</sup> Regulations governing the conduct of candidates during an examination have been issued under the authority of this section.

(7) No person shall hereafter be entitled to a certificate of competency as a manager, underground manager or overman who is not a British subject of the full age of 21 years, and has not had at least four years' experience underground in a coal mine, one year of which must have been at the working face. 1914, c. 46, s. 1, part.

(8) Every candidate for a certificate of competency as a manager must be the holder of a certificate of competency as an underground manager and have served one year at a working face and one year as an overman or examiner. 1914, c. 46, s. 1, part.

#### Examination of Mines.

11. (1) The Governor in Council may, in any of the districts into which this province is divided for the purpose of section 10 of this Act, appoint a commission of three members, one of whom shall be a working miner, one the owner of a mine or his agent, and one a person of experience in coal mining but not employed in or connected with any mine in operation.

(2) Such commission shall have power to examine every mine and to recommend that in any mine no lamp or light, other than a locked safety lamp, shall be allowed or used, and shall forthwith report any such action to the Commissioner.

(3) The Commissioner, upon such report, may order that no lamp or light, other than a locked safety lamp, shall be allowed or used in any such mine, and that in case any owner or manager of a mine neglects or refuses to comply with any such order of the Commissioner, the Commissioner shall have power to order the closing of such mine, and for every day that any work is done below ground in such mine, in violation of the order, such owner or manager shall be liable to a penalty of not less than one thousand dollars.

12. (1) The board of examiners shall draw up rules for the guidance of its proceedings, which rules shall be subject to the approval of the Commissioner.

(2) They shall, at the end of the annual examination of candidates' papers, return to the Commissioner their recommendations, together with all the papers of the candidates who have submitted themselves to examination, said papers to be kept on file with the Commissioner for at least one year after the date of said examination. 1912, c. 61, s. 4.

(3) The Governor in Council shall have power at any time to alter and revoke any rules made by the board of examiners.

13. The fees and travelling expenses to be paid to the board of examiners and commissioners, and the fees to be paid by applicants for certificates, shall be determined by the Governor in Council.

#### Register.

14. A register of the holders of certificates under this Chapter shall be kept at the office of the Commissioner by such person and in such manner as he may from time to time direct.

15. Any person holding a certificate of service as manager, underground manager or overman, issued by the Commissioner previous to the coming into force of this Act, may continue to be employed as manager, underground manager or overman, (according to the tenor of such certificate), in the mine in respect to which the certificate was issued, anything in this Chapter to the contrary notwithstanding.

#### Certified Workmen.

16. (1) No person not employed as a miner in a mine previous to the 11th day of March, 1898, shall be permitted to cut, mine, bore, blow, loosen or extract coal by hand, machinery or otherwise, unless he has been employed in some capacity in a mine for the period of one year, and holds a certificate to that effect, from a board of examiners of workmen, and unless he is accompanied by some person entitled to be given charge of a "working face" as hereinafter described. 1914, c. 46, s. 2, part.

(2) No person shall be given charge of a "working face" in a mine who does not hold,—

(a) a certificate of service as a miner; or

(b) a certificate of competency as a miner granted by a board of examiners of workmen; and

(c) unless such person has been employed in a mine for at least one year as a miner. 1914, c. 46, s. 2, part.

(3) No person shall be employed in any mine as a "shot-firer" unless he holds a certificate of competency, as such, granted by a board of examiners of workmen, to be appointed by the Commissioner.

(4) Every owner, agent or manager of any mine who gives charge of a "working face" to any person who is not the holder of a certificate of competency, or a certificate of service, as required by this section, and every person who obtains or seeks to obtain such employment by means of a false or fraudulent certificate, shall be guilty of an offence against this Chapter.

(5) In the case of the introduction of any coal cutting machine not in use in the province before the 11th day of March, 1898, any person may work such machine, if he is accompanied by a person capable of taking charge of a "working face" under this Chapter.

(6) Nothing in subsections one and two of this section shall prevent miners from abroad obtaining certificates of competency under this section.

#### Boards of Examiners of Workmen.

17. (1) The Commissioner may appoint boards of examiners of workmen in such places as he deems expedient, who shall examine candidates for certificates of competency as miners, shot-firers and mine-examiners, and shall grant such certificates to persons found duly qualified.

(2) Boards of examiners of workmen shall consist of not less than two persons who have had practical experience of coal mining and are actively engaged in coal mining in Nova Scotia, and who hold certificates of competency as miners, and who shall be appointed for a term of two years, to begin on the 2nd day of January in the year in which appointment is made, and all appointments to said board of examiners now outstanding and made prior to the 2nd day of January, 1912, shall be for a period of two years from said date, and shall then expire, provided, however, that the Commissioner may for cause at any time cancel and revoke any of said appointments.

(3) The Commissioner may make regulations for guidance of boards of examiners of workmen in the performance of their duties and may prescribe the times and places at which the examination shall be held.<sup>1</sup>

(4) Every board of examiners of workmen shall report in writing to the Commissioner at the times and in the manner prescribed in the regulations, after each examination, the name, address and place of employment, if any, of every candidate to whom a certificate of competency is granted under this section. 1915, c. 29, s. 3.

(5) Members of the Provincial Board of Examiners of workmen are for the purposes of the examination authorized to administer oaths and affirmations. 1912, c. 61, s. 5.

#### Employment of Boys.

18. (1) No boy of or above the age of twelve years and under the age of sixteen years shall be employed in or about or allowed to be for the purpose of employment in or about any mine, below or above ground, for more than fifty-four hours in any one week, or for more than ten hours in any one day, except in case of accident or emergency.

(2) For the purposes of this section a "week" shall be deemed to begin at midnight on Saturday night and to end at midnight on the succeeding Saturday night.

(3) No boy under the age of twelve years shall be employed in or about or allowed to be for the purpose of employment in or about any mine below ground or above ground.

19. (1) No boy of or above the age of twelve years and under the age of sixteen years shall be permitted to work in or about any mine, below or above ground, unless he furnishes a certificate from the principal teacher of the schools or school of the section of having satisfactorily completed the prescribed course of study up to the end of grade seven.

(2) Every such teacher shall, without requiring payment of any fee, upon the application of any boy desiring employment, grant him such certificate, if he is entitled to the same, and any such teacher refusing to make such examination and grant such certificate shall be liable to a penalty not exceeding ten dollars.

20. Every person who contravenes or fails to comply with or permits any person to contravene or fail to comply with any provision of this Chapter, with respect to the employment of boys, shall be guilty of an offence against this Chapter, and in case of any such contravention or non-compliance by any person whomsoever, the owner and agent shall each be guilty of an offence against this Chapter, unless he proves that he has taken all reasonable means to prevent such contravention or non-compliance by publishing, and to the best of his power enforcing, the next two preceding sections.

#### Payment of Wages.

21. No wages shall be paid to any person employed in or about any mine at or within any public house, beer shop or place for the sale of any spirits, beer, wine or other spirituous or fermented liquor, or other house of entertainment, or any office, garden or place belonging or contiguous thereto or occupied therewith.

22. (1) When the amount of wages paid to any of the persons employed in a mine depends on the amount of mineral gotten by them, such persons shall, if the majority

<sup>1</sup> Regulations have been issued under the authority of this section providing for the holding of monthly examinations and containing provisions for the guidance of Boards of Examiners.

of them so desire, and unless the mine is exempted by the Commissioner, be paid according to the weight of the mineral gotten by them, and such mineral shall be truly weighed accordingly at a place as near to the pit mouth as is reasonably practicable.

(2) Nothing in this section shall preclude the owner, agent or manager of any mine from agreeing with the persons so employed and paid that deductions shall be made in respect to stones or material other than mineral contracted to be gotten which are sent out of the mine with the mineral contracted to be gotten, or in respect to any tubs, cars or hutches being improperly filled in those cases in which they are filled by the getter of the mineral, or by the loader, or by the person immediately employed by him, and no such deductions shall be made until such agreement is made in writing on behalf of both parties.

(3) When the amount of wages paid to any of the persons employed in a mine depends on the amount of mineral gotten by them, and such persons are paid by cubic measurement or by the car or a box of a standard weight mutually agreed on by the owner, agent or manager of such mine and a majority of the persons so employed, no change shall be made in such mode of payment nor in such standard weight of a car or box unless an agreement in writing has been first made between such owner, agent or manager on the one hand and a majority of the persons so employed on the other hand, and if the parties are unable to agree the matter shall be determined in the manner provided in subsections 4 and 5 of this section.

(4) If such deductions or new standard of weight are not mutually agreed on, they shall be determined,—

(a) in any special mode agreed upon between the owner, agent or manager of the mine on the one hand, and the majority of the persons so employed and paid on the other, or

(b) by some person appointed on that behalf by the owner, agent or manager, and by a person appointed by such majority, who may be the check-weigher if any check-weigher has been appointed, as in this Chapter provided, or

(c) if the persons so appointed are unable to agree, a third person shall be chosen by such persons, or by the Commissioner in case they fail to agree upon such third person, and the decision of a majority of the three persons so selected shall be final.

(5) If any owner, agent or manager, or a majority of the persons so employed in any mine, fail to appoint a person to determine such deductions, or new standard of weight, a person may be appointed on his or their behalf by the Commissioner.

(6) The Commissioner may make rules prescribing the procedure to be observed in the appointment by the persons employed in the mine, of a person to act under this section, and certifying the same to the Commissioner, or certifying that they have been unable to agree upon such appointment, or have failed to make such appointment. 1914, c. 46, s. 3.

23. Every person who contravenes or fails to comply with or permits any person to contravene or fail to comply with any of the provisions of the next two preceding sections, shall be guilty of an offence against this Chapter; and in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent and manager shall each be guilty of an offence against this Chapter unless he proves that he had taken all reasonable means to prevent such contravention or non-compliance by publishing, and to the best of his power enforcing, such provisions, and shall be liable to a penalty of not less than fifty dollars or more than one hundred dollars, and for every day on which such contravention occurs, it shall constitute a separate and distinct offence.

#### Check Weighers.

24. (1) The persons who are employed in a mine and are paid according to the weight of the mineral gotten by them, may, at their own cost, station a person (in this Chapter called a "check-weigher") at the place appointed for the weighing of such mineral in order to take an account of the weight thereof on behalf of the persons by whom he is so stationed. Every such check weigher shall be a certificated miner of at least three years' service, and shall be, at the time of his appointment, employed in the colliery at which he is to serve.

(2) A check-weigher shall have every facility afforded him to take a correct account of the weighing for the persons by whom he is so stationed, including facilities for examining and testing the weighing machine, and checking the taring of tubs and boxes, when necessary; and also for counting boxes and tallies in order that the number of boxes, weights or quantities credited to each person may be ascertained; and also including a shelter from the weather, and a desk or table at which to write, to be furnished by the owner, agent or manager, and access to all parts of the mine and bankhead necessary for the fulfilment of his duties.

(3) If at any mine proper facilities are not afforded to a check-weigher, as required by this section, the owner, agent or manager of the mine shall each be guilty of an offence against this Chapter, unless he proves that he had taken all reasonable means to enforce to the best of his power the requirements of this section.



(4) Where no check-weigher has been appointed in any mine, or an additional check-weigher is required, or when a vacancy occurs in the office of check-weigher, a meeting of the persons who are employed in the mine and are paid according to the weight of the mineral gotten by them, may be called by a notice signed by not less than ten of such persons, and posted up in at least three public places at or near the mine for not less than one week.

(5) Such meeting shall fix the time and place for taking a ballot of the persons employed in the mine who are paid according to the weight of the mineral gotten by them, for the appointment of a check-weigher, and shall make all necessary arrangements for the securing to all of such persons the opportunity of voting at such ballot, and the person receiving the largest number of votes at such ballot, shall be the check-weigher appointed.

(6) No check-weigher shall, unless re-elected in the manner in this section provided, hold office or act as check-weigher for more than one year.

25. The check-weigher shall not be authorized in any way to impede or interrupt the working of the mine, or to interfere with the weighing, but shall be authorized only to take such account as aforesaid; and the absence of the check-weigher shall not be a reason for interrupting or delaying such weighing.

26. When a check-weigher has been appointed by the majority ascertained by ballot of the persons employed in a mine who are paid according to the weight of the mineral gotten by them and has acted as such, he may recover from any person for the time being employed at such mine and so paid, his proportion of the check-weigher's wages or recompense, notwithstanding that any of the persons by whom the check-weigher was appointed have left the mine, or others have entered the same since the check-weigher's appointment, any rule of law or equity to the contrary notwithstanding.

27. (1) If the owner, agent or manager of the mine desires the removal of a check-weigher, on the ground that the check-weigher has impeded or interrupted the working of the mine, or interfered with the weighing, or has otherwise misconducted himself, he may complain to any justice of the peace of the county in which the mine is situated, who, if of the opinion that the owner, agent or manager shows sufficient *prima facie* ground in writing for the removal of such check-weigher, shall by summons call upon the check-weigher to appear at a certain time and place therein mentioned.

(2) Such summons and a copy of the complaint shall be served on the check-weigher by any constable of the county at least five days before the return day of said summons.

(3) In default of appearance of the check-weigher to answer the complaint, proof of the service of the summons shall be furnished by the said constable in the same way as in ordinary civil suits before a justice of the peace.

(4) Whether the check-weigher appears or not, the justice shall hear the case at the time fixed in the summons, and if he thinks sufficient ground is shown by the owner, agent or manager to justify the removal of the check-weigher, he shall make a summary order for his removal, and the check-weigher shall thereupon be removed, but without prejudice to the stationing of another check-weigher in his place.

(5) The justice may in every case make such order as to the cost of the proceedings as he thinks just, and execution may issue for the recovery of the same.

28. (1) In any mine in which the persons employed are, with the concurrence of the Commissioner of Mines, paid by mutual agreement otherwise than according to the weight of the mineral gotten by them, they may at their own cost employ a practical miner, who shall at all times have power and necessary facilities to check the correctness of the modes, methods, measure, measurements, or quantities according to which such persons are paid, on behalf of the persons by whom he is employed; and also for counting boxes and tallies once daily, in order that the number of boxes, weights or quantities credited to each person may be ascertained.

(2) The provisions of this Chapter with respect to the powers and duties of a check-weigher, and the facilities to be afforded him, and his removal from office, shall apply to every person appointed under this section.

28a. Every check-weigher and every practical miner employed under the provisions of the next preceding section to check the measurements and quantities according to which the miners employed in the mine are paid, shall send to the commissioner monthly returns of all coal weighed, measured or checked by him. Such returns shall be made on forms supplied by the Commissioner, and shall be verified by affidavit of the person by whom they are made. 1909, c. 50, s. 1, part.

28b. All coal sold by retail by the owner of any mine shall be weighed at the mine, and every mine owner selling by retail shall furnish facilities for weighing the coal so sold. The mine owner shall cause to be included in the quarterly returns required under the provisions of "The Mines Act," the number of tons so sold, giving separately the number of tons supplied to workmen employed in and about the mine, or in mining



operations in and about the mine, or on the coal wharves of the owner, and the number of tons supplied to persons other than such workmen. 1909, c. 50, s. 1, part.

28c. Every person failing to comply with any of the provisions of the next two preceding sections shall be guilty of an offence against this Chapter.<sup>1</sup> 1909, c. 50, s. 1, part.

29. (1) The wages of every person employed in a coal mine shall be paid twice in each month at intervals as nearly as possible of half a month.

(2) At each of such times of payment the wages of such employee shall be paid up to the time of the last preceding time of payment, and any employee who is absent at any such time of payment, shall at any time thereafter on demand be entitled to be paid his wages up to such last preceding time of payment.

(3) The owner, agent or manager of any mine who contravenes or fails to comply with this section shall each be guilty of an offence against this Chapter.

(4) In case of any proceeding instituted in respect of an offence against this section, (a) three days' notice of the intention to institute such proceeding shall be given to such owner, agent or manager;

(b) every such proceeding shall be instituted within thirty days from the commission of the offence charged;

(c) the owner, agent or manager accused shall not be permitted to set up by way of defence any agreement of hiring inconsistent with this section, and

(d) any penalty recovered shall be paid to the treasurer of the municipality or town in which the mine in respect to which the offence was committed is situated.

30. (1) No owner, agent or manager of any mine shall deduct from the wages of any employee in such mine any sum in respect to school rates, or other rates, without the consent in writing of the employee to such deduction.

(2) Every person who contravenes or fails to comply with this section shall be guilty of an offence against this Chapter.

(3) Any penalty recovered in respect to an offence against this section shall be paid to the person aggrieved.

31. (1) The wages or salary of any employee of any mine shall not be paid otherwise than in money current in the Dominion of Canada.

(2) Any such employee may by order in writing authorize his employer to apply the whole or any part of the wages or salary due to such employee to the payment of any debt due by such employee, but any such order shall be effective only for a semi-monthly period specified therein, and for an amount specified therein.

(3) Any such employer may without any order retain out of the wages or salary of any such employee any sums due by such employee in respect to powder, coal, oil, rent, check-weigher's fees, doctor's fees, or church or society dues.

32. (1) The owner, agent or manager of any mine who contravenes or fails to comply with the next preceding section, shall each be guilty of an offence against this Chapter, and liable to a penalty of not less than fifty dollars or more than one hundred dollars.

(2) In any prosecution for any such offence:—

(a) service of any process shall be sufficient if made on the resident manager of the mine at which the offence was committed; and

(b) the burden of proving that the provisions of the next preceding section were complied with shall be upon such owner, agent or manager.

#### Single Shafts.

33. (1) The owner, agent or manager of a mine shall not employ any person in the mine, or permit any person to be in the mine for the purpose of employment therein, unless the following conditions respecting shafts or outlets are complied with, that is to say:—

(a) There shall be at least two shafts or outlets with which every seam for the time being at work in the mine shall have a communication, so that such shafts or outlets shall afford separate means of ingress and egress available to the persons employed in every such seam, whether the shafts or outlets belong to the same mine or to more than one mine;

(b) Such shafts or outlets shall not at any point be nearer to one another than fifteen yards, and there shall be between such two shafts or outlets a communication not less than four feet wide and four feet high;

(c) Proper apparatus for raising and lowering persons at each such shaft or outlet shall be kept on the works belonging to the mine; and such apparatus if not in actual use at the shafts or outlets shall be constantly available for use.

(2) Every owner, agent or manager of a mine who acts in contravention of or fails to comply with this section shall be guilty of an offence against this Chapter.

<sup>1</sup> Sections 28a, 28b, 28c, above, shall not go into effect until proclaimed by the Governor in Council. 1909, c. 50, s. 5. (These sections have not yet gone into effect).

(3) The Supreme Court, or any judge thereof, whether any other proceedings have been taken or not, may, upon the application of the Attorney-General, prohibit by injunction the working of any mine in which any person is employed or is permitted to be for the purpose of employment in contravention of this section, and may award such costs in the matter of the injunction as the court or judge thinks just; but this provision shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this Chapter.

(4) Written notice of the intention to apply for such injunction in respect to any mine shall be given to the owner, agent or manager of the mine not less than ten days before the application is made.

#### Second Shafts.

34. No person shall be precluded by any agreement from doing such acts as are necessary for providing a second shaft or outlet to a mine, where the same is required by this Chapter, or be liable under any contract to any penalty or forfeiture for doing such acts as are necessary in order to comply with the provisions of this Chapter with respect to shafts or outlets.

35. (1) The foregoing provisions of this Chapter with respect to shafts or outlets shall not apply:—

(a) In the case of a new mine being opened—

(i) to any working for the purpose of making a communication between two or more shafts, or

(ii) to any working for the purpose of searching for or proving minerals, so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connection with a single shaft or outlet; nor

(b) To any proved mine, so long as it is exempted by order of the Commissioner on the ground either—

(i) that the quantity of mineral proved is not sufficient to repay the outlay which would be occasioned by sinking or making a second shaft or outlet, or by establishing communication with a second shaft or outlet in any case where such communication existed and has become unavailable; or

(ii) that the workings in any seam of the mine have reached the boundary of the property or the extremity of the mineral field of which that seam is a part, and that it is expedient to work away the pillars already formed in course of ordinary working, notwithstanding that one of the shafts or outlets may be cut off by so working away the pillars of that seam, and so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connection with a single shaft or outlet; nor

(c) To any mine—

(i) while a shaft is being sunk or an outlet being made, or

(ii) one of the shafts or outlets of which has become by reason of some accident unavailable for the use of the persons employed in the mine, so long as the mine is exempted by order of the Commissioner, and as the conditions, if any, annexed to the order of exemption are duly observed.

#### Returns and Notices.

36. (1) The owner, agent or manager of every mine shall once a year, if required by the inspector, send to him a return of facts relating to the mode and description of means of ventilation, a description of the upcast and downcast shafts, of the length and sectional area of the airways, the number of splits and quantity of fresh air in cubic feet per minute and the average total quantity of air in cubic feet per minute in his mine.

(2) The returns shall be in such forms as are from time to time prescribed by the Commissioner, who shall from time to time on application furnish forms for the purpose of such returns.

(3) Every owner, agent or manager of a mine who fails to comply with this section, or makes any return which is to his knowledge false in any particular, shall be guilty of an offence against this Chapter.

37. (1) Where, in or about any mine, whether above or below ground, any accident occurs which either—

(a) causes loss of life to any person employed in or about the mine; or

(b) causes any fracture of the head or of any limb, or dislocation of a limb, or any other serious personal injury to any person employed in or about the mine; or

(c) is caused by any explosion of gas or coal dust or any explosive, or by electricity, or by overwinding, or by any other such special cause as the Commissioner specifies by order or regulation, and causes any personal injury whatever to any person employed in or about the mine, the owner, agent, or manager of the mine shall forthwith send notice in writing of the accident, and of any loss of life or personal injury caused thereby, to the Commissioner and to the deputy inspector of the district in which the

accident occurs, and shall specify in such notice the character of the explosion or accident and the number of persons killed and injured, and as soon thereafter as possible shall also send a report to the Commissioner of all the facts relating to such accident or explosion in such form and accompanied by such particulars as are prescribed in the schedule to this Act.

(2) Where any personal injury, of which notice is required to be sent under this section, results in the death of the person injured, notice in writing of the death shall be sent to the deputy inspector within twenty-four hours after such death comes to the knowledge of the owner, agent or manager.

(3) Every owner, agent or manager who fails to act in compliance with this section shall be guilty of an offence against this Act. 1915, c. 29, s. 4.

#### Re-opening, or Abandoning a Mine.

38. In any case—

(a) where any change occurs in the name of any mine not exempted from compliance with this clause by the Commissioner, or in the name of the owner, agent or manager of any such mine, or in the officers of any incorporated company which is the owner of any such mine, or

(b) where any working is commenced for the purpose of opening a mine, or

(c) where any mine is abandoned or the working thereof discontinued, or

(d) where the working of a mine is recommenced after an abandonment or discontinuance for a period exceeding two months,

the owner, agent or manager of such mine shall give notice thereof to the Commissioner within two months after such commencement, abandonment, discontinuance, recommencement or change; and if such notice is not given, the owner, agent or manager shall be guilty of an offence against this Chapter.

#### Abandoned Mines.

39. (1) Where any mine is abandoned or the working thereof discontinued, at whatever time such abandonment or discontinuance occurs, the owner thereof, and every other person interested in the mineral of such mine, shall cause the top of the shaft and any side entrance from the surface to be fenced and to be kept securely fenced for the prevention of accidents;

Provided that,—

(a) subject to any contract to the contrary the owner of the mine shall as between himself and any other person interested in the minerals of the mine, be liable to carry into effect this section, and to pay any costs incurred by any other person interested in the minerals of the mine in carrying this section into effect; and

(b) nothing in this section shall exempt any person from any liability under any other Chapter or Act, or otherwise.

(2) If any person fails to act in conformity with this section, he shall be guilty of an offence against this Chapter.

40. (1) Where any mine is abandoned, the owner of such mine at the time of such abandonment shall, within three months after such abandonment, send to the Commissioner an accurate plan on a scale of not less than four hundred feet to one inch, showing the boundaries of the workings of such mine up to the time of the abandonment, with the view of its being preserved under the care of the Commissioner.

(2) Every person who fails to comply with this section shall be guilty of an offence against this Chapter.

#### Inspection.

41. (1) The Inspector and every Deputy Inspector shall have power to do all or any of the following things, namely:—

(a) To make such examination and inquiry as is necessary to ascertain whether the provisions of this Chapter relating to matters above ground or below ground are complied with in the case of any mine;

(b) To enter, inspect and examine any mine and every part thereof, at all reasonable times by day and night, but so as not to impede or obstruct the working of the mine;

(c) To examine into and make inquiry respecting the state and condition of any mine, or any part thereof, and the ventilation of the mine, and the sufficiency of any special rules for the time being in force in the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine or any mine contiguous thereto.

(2) The Inspector shall have power, and may authorize any Deputy Inspector, to exercise such other powers as are necessary for carrying this Chapter into effect.

(3) Every person who wilfully obstructs the Inspector or any Deputy Inspector in the execution of his duty under this Chapter, and every owner, agent and manager of a mine who refuses or neglects to furnish to the Inspector or Deputy Inspector

the means necessary for making any entry, inspection, examination or inquiry under this Chapter in relation to such mine, shall be guilty of an offence against this Chapter. 1910, c. 37, s. 1.

#### Plan of Workings.

42. (1) The owner, agent or manager of every mine shall keep in the office at the mine an accurate plan of the workings of such mine, showing the workings up to three months or less previously.

(2) The owner, agent or manager of the mine shall produce to the Inspector or Deputy Inspector at the mine such plan, and shall, if requested by the Inspector or Deputy Inspector, mark on such plan or a copy thereof the progress of the workings of the mine up to the time of such production, and shall allow the Inspector or Deputy Inspector to examine the same, and shall furnish to the Inspector or Deputy Inspector a correct copy of such plan when requested by him.

(3) The owner, agent or manager, on or before the first day of April of each year, shall furnish to the Inspector a correct plan or tracing (not before furnished) of the workings up to the 1st day of January then last past.

(4) Every owner, agent or manager of any mine who,—

(a) fails to keep such a plan as is prescribed by this section, or

(b) refuses to produce the same to the Inspector or Deputy Inspector and allow it to be examined by him, or

(c) refuses on request to mark on such plan the state of the workings of the mine at the time of such request, or

(d) conceals any part of such working, or

(e) produces an imperfect or inaccurate plan, shall, unless he shows that he was ignorant of the concealment, imperfection or inaccuracy be guilty of an offence against this Chapter.

(5) The Inspector may also by notice in writing (whether a penalty for such offence has been imposed or not), require the owner, agent or manager to cause an accurate plan, such as is prescribed by this section, to be made within a reasonable time at the expense of the owner of the mine on a scale of not less than four hundred feet to one inch, or on the same scale as the plan then used at the mine.

(6) If the owner, agent or manager fails within twenty days after the requisition of the Inspector, or within such further time as is shown to be necessary to make such plan, he shall be guilty of an offence against this Chapter. 1910, c. 37, s. 2.

43. (1) If in any respect (not provided for by any express provision of this Act or any amendment thereof, or by any rule, general or special), the Inspector of Mines finds, or is of the opinion, that any mine or any part thereof or any matter, thing or practice in or connected with any mine or any part thereof, is dangerous or defective, and not in the interests of safety, or if he finds or is of the opinion that any matter, thing or practice is being carried on contrary to any rule, regulation or order made under the provisions of this Act and any amendments thereof, and in either case so as in his opinion to threaten or tend to the bodily injury of any person, or the waste or misuse of any property leased from the Crown, the inspector shall give notice in writing thereof to the owner, agent or manager of the mine, and shall state in such notice, the particulars in which he considers such mine, or any part thereof, or any matter, thing or practice, to be dangerous or defective, and not in the interests of safety, or is being carried on contrary to any rule, regulation or order, and require the same to be remedied; and unless the same is forthwith remedied the inspector shall report the same to the Commissioner. 1915, c. 29, s. 2.

(2) If the owner, agent or manager of the mine objects to remedy the matter complained of in the notice, he may within ten days after the receipt of such notice send his objection in writing, stating the grounds thereof to the Commissioner, and thereupon the matter shall be decided by arbitration by the Commissioner, together with one arbitrator appointed by the Inspector and one appointed by such owner or agent; and the award of the Commissioner with one of the arbitrators shall be final.

(3) Five days' notice of the time and place at which the Commissioner will hear such matter shall be given to the parties interested.

(4) If the owner, agent or manager fails,—

(a) when no objection is sent as aforesaid, to comply with the requisition of the notice within ten days after the expiration of the time for objection, or

(b) when there has been an arbitration, to comply with the award within the time fixed by the award,

he shall be guilty of an offence against this Chapter and liable to a penalty of at least eighty dollars for each and every day he fails to comply with the requisition of the notice, or with the award, and the notice and the award shall respectively be deemed to be written notice of the offence. 1914, c. 46, s. 4.

(5) The Commissioner, if satisfied that the owner, agent or manager has taken active measures for complying with the notice or award, but has not with reasonable

diligence been able to complete the works, may adjourn any proceedings taken before him for punishing the offence, and if the works are completed within a reasonable time no penalty shall be inflicted.

(6) No person shall be precluded by any agreement from doing such acts as are necessary to comply with the provisions of this section, or be liable under any contract to any penalty or forfeiture for doing such acts.

#### Investigations.

44. Where it appears to the Commissioner that a formal investigation of any accident in any mine or of any matter connected with the working of any mine is expedient, the Commissioner may direct the Inspector to hold such investigation, and with respect to any such investigation the following provisions shall have effect:—

(1) The Commissioner may appoint any person or persons possessing legal or special knowledge to act with the Inspector as assessor or assessors in holding the investigation.

(2) The Inspector shall make such investigation in such manner and under such conditions as he thinks most effectual for the making of a full investigation.

(3) The Inspector for the purposes of the investigation shall have all the power of a Commissioner appointed under the Chapter of the Revised Statutes of "Inquiries Concerning Public Matters," and all the powers conferred upon the Inspector by this Chapter, and as part thereof or in addition thereto the following powers, namely:—

(a) Power to enter and inspect any mine, building or place, the entry or inspection of which appears to the Inspector expedient;

(b) Power by summons signed by the Inspector to require the attendance of any persons, and to require of such persons such answers or returns to inquiries as the Inspector thinks fit;

(c) Power to require the production of any book, paper or document which the Inspector thinks important upon such investigation;

(d) Power to administer an oath.

(4) Any person attending before the Inspector in obedience to any such summons shall be allowed the fees paid to a witness attending a trial in the Supreme Court.

(5) Any person who without reasonable excuse either fails (after having had any fees to which he is entitled tendered to him) to comply with any summons requiring him to attend before the Inspector upon any such investigation, or refuses to produce any document which he is required by the Inspector to produce, or prevents or impedes the Inspector when engaged upon such investigation, shall for each such offence be liable to a penalty not exceeding fifty dollars, or to imprisonment for a term not exceeding twenty days, and in addition thereto may be proceeded against in the Supreme Court as for a contempt of such Court.

(6) The Inspector shall make a report upon such investigation, which the Commissioner may cause to be made public at such time and in such manner as he thinks fit.

(7) Any expense incurred in and about any such investigation (including the remuneration of any person appointed to act assessor) shall be paid out of the provincial treasury.

#### Coroners' Inquests.

45. With respect to coroners' inquests on the bodies of persons whose death may have been caused by explosions or accidents in mines, the following provisions shall have effect:—

(1) When a coroner holds an inquest on the body of any person whose death may have been caused by an explosion or accident, of which notice is required by this Chapter to be given to the Commissioner or Deputy Inspector, the coroner, whenever practicable, shall immediately notify the Deputy Inspector for the district of his intention to hold such inquest, and in the absence, non-arrival or non-attendance of the Deputy Inspector, the coroner shall adjourn such inquest, whenever practicable to enable the Inspector, Deputy Inspector or some other properly qualified person appointed by the Commissioner, to be present to watch the proceedings.

(2) The coroner, at least four days before holding the adjourned inquest, shall send to the Commissioner or to the Deputy Inspector for the district, notice in writing of the time and place of holding such adjourned inquest.

(3) The coroner before the adjournment may take evidence to identify the body, and may order the interment thereof.

(4) The Inspector, or such other person so appointed, or a person appointed by the workmen of the mine at which the accident occurred, shall be at liberty at any such inquest to examine any witness, subject nevertheless to the order of the coroner.

(5) Where evidence is given at an inquest, at which the inspector or such other person so appointed is not present, of any neglect, as having caused or contributed to the explosion or accident, or of any defect in or about the mine appearing to the coroner

or jury to require a remedy, the coroner shall send to the inspector notice in writing of such neglect or default.

(6) Any person having a personal interest in, or employed in, or in the management of, the mine in which the explosion or accident occurred, or any relative of the deceased person upon whose body the inquest is to be held, shall not be qualified to serve on the jury empanelled on the inquest, or to act as coroner therein; and it shall be the duty of the constable or other officer not to summon any person disqualified under this provision, and it shall be the duty of the coroner not to allow any such person to be sworn or to sit on the jury.

(7) Whenever practicable the coroner shall require the constable or other officer to summon as jurymen not less than three working men employed at any other mine than that at which the accident occurred, who shall form part of the jury sworn in such inquest.

(8) Every person who fails to comply with the provisions of this section shall be guilty of an offence against this Chapter.

#### General Rules.

46. (1) The following general rules shall be observed, so far as is reasonably practicable, in every mine:

Rule 1.—An adequate amount of ventilation shall be constantly produced in every mine to dilute and render harmless noxious gases to such an extent that the working places of the shafts, levels, stables and workings of the mine and the travelling roads to and from such working places shall be in a fit state for working and passing therein.

Rule 2.—In every mine in which inflammable gas has been found within the preceding twelve months a competent person, holding a certificate of underground manager, overman or examiner, who shall be appointed for the purpose, shall inspect with a locked safety lamp every part of the mine except places abandoned and properly fenced off according to law, within five hours of the time of each shift commencing work, and if inflammable gas has been found within the preceding three months, then within three hours of the time of commencing work, and shall make a true report in writing to the manager, underground manager or overman at the time in charge of the pit, on the condition thereof as far as ventilation is concerned; and shall also satisfy himself that no dangerous conditions exist as to roof and working faces, and make a similar report on the conditions of the same, and a workman shall not go to work in such part until the same and the roadways leading thereto are stated to him by a person appointed for that purpose to be safe. 1915, c. 29, s. 5.

Rule 3.—In every mine in which inflammable gas has not been found within the preceding twelve months, once in every twenty-four hours a competent person holding a certificate as underground manager, overman or examiner, who shall be appointed for the purpose, shall within five hours before the time for commencing work in any part of the mine inspect with a safety lamp every part of the mine except places abandoned and properly fenced off according to law, and shall make a true report in writing of the condition thereof so far as ventilation is concerned; and a workman shall not go to work in such part until the same and the roadways leading thereto are stated to him to be safe.

Rule 4.—All entrances to any place in a mine not in actual course of working and extension shall be properly fenced across the whole width of such entrance, so as to prevent persons inadvertently entering the same; and every person who enters any place so fenced off, or any place having a danger board signal displayed at the entrance thereof, shall be liable to a penalty of not less than ten dollars nor more than fifty dollars.

Rule 5.—A station or stations shall be appointed at the entrance to a mine, or entrance to the different parts of the same mine, as the case requires, and a workman shall not pass beyond any such station or stations until the mine or part of the mine beyond the same has been inspected and stated to him to be safe.

Rule 6.—If at any time it is found by the person for the time being in charge of the mine, or any part thereof, that by reason of noxious gases prevailing in such mine or such part thereof, or of any cause whatever, the mine or the said part is dangerous, every workman shall be withdrawn from the mine, or such part thereof as is so found dangerous, and a competent person, who shall be appointed for the purpose, shall inspect the mine or such part thereof as is so found dangerous, and if the danger arises from inflammable gas, shall inspect the same with a locked safety lamp, and in every case shall make a true report of the condition of such mine or part thereof; and a workman shall not, except in so far as is necessary for inquiring into the cause of danger or for the removal thereof, or for exploration, be re-admitted into the mine, or such part thereof as was so found dangerous, until the same is stated by such report, not to be dangerous. Every such report shall be recorded in a book which shall be kept in a mine for the purpose, and shall be entered by the person making the same.



(6A) In every mine in which closed safety lamps are required under the provisions of this Act, there shall be provided at or in the mine such lighting station or stations as the extent and nature of the workings require. 1911, c. 30, s. 1.

Rule 7.—In every working approaching any place where there is likely to be an accumulation of explosive gas, no lamp or light other than a locked safety lamp shall be allowed or used; and whenever safety lamps are required by this Chapter, or by any special rules made in pursuance of this Chapter, to be used, a competent person, who shall be appointed for the purpose, shall examine every safety lamp immediately before it is taken into the working for use, and ascertain if it is secure and securely locked; and in any part of a mine in which safety lamps are required to be used, they shall not be used until they have been so examined and found secure and securely locked, and shall not be unlocked except at a lighting station; and in the said part of the mine, no person, other than a shot-firer employed in such mine as a shot-firer, shall have in his possession any key or contrivance for opening the lock of any safety lamp, or any lucifer match or apparatus of any kind for striking a light, and in any mine in which more than forty safety lamps are used at any one time, there shall be a person appointed whose duty it is to see that the lamps are in good order when given out to the workmen. 1912, c. 62, s. 1.

7A. Every mine examiner shall, at all times, while in the discharge of his duties as mine examiner, use a locked safety lamp, and shall, unless the Deputy Inspector permits otherwise, be accompanied by an employee of the owner not less than eighteen years of age, who shall also use a locked safety lamp. 1909, c. 50, s. 2.

(7A.) Every mine examiner shall, at all times, while in the discharge of his duties as mine examiner, use a locked safety lamp, and shall observe such provisions as to being accompanied by an employee of the company, and such other precautions as to safety as the Commissioner, on the recommendation of the Inspector and the Deputy Inspectors, may from time to time, by regulations approved by the Governor in Council prescribe. The application of such regulations may be made general or may be limited to such mine or mines as conditions require. 1911, c. 30, s. 3.

Rule 7A as set out in Chapter 50 of the Acts of 1909 (as printed above), shall continue in force until the regulations mentioned in the next preceding section have been approved by the Governor in Council.<sup>1</sup> 1911, c. 30, s. 4.

(7B.) Nothing in this rule, or in this Act, or any amendment thereof, shall make illegal the use of electric lamps, of a type to be approved of by the Commissioner; provided, however, that no such electric lamps shall, under any circumstances, be used for the purpose of examination for the detection of inflammable gas. 1913, c. 43, s. 1.

Rule 8.—The following provisions shall relate to the use of any explosive in a mine.

(1) It shall not be stored in the mine, or within two hundred and fifty yards of the slope or shaft, or at any place not approved of by the Inspector or Deputy Inspector;

(2) It shall not be taken into the mine except in a secure case or canister containing not more than six pounds;

(3) There shall not be at any one time in any one working place more than one of such cases or canisters;

(4) It shall not be taken into or be in the possession of any person in any mine during two months after inflammable gas has on three consecutive days been found in the mine in quantity sufficient to show in a safety lamp, except in the following cases:

(a) in cases of stonework and sinking shafts in which the ventilation is so managed that the return from the place where the explosive is used passes into the main return air course without passing any place in actual course of working, or

(b) when the persons ordinarily employed in the mine are out of the same.

(5) In any case in which any explosive is used,—

(i) under the next preceding sub-head, or

(ii) in any mine during three months after inflammable gas has been found in quantity sufficient to show in a safety lamp,

no shot shall be fired except by a person holding a certificate as a shot-firer under this Chapter, and employed as a shot-firer in the mine, nor unless such person, immediately before firing a shot, has examined the place where the shot is to be fired, and the places contiguous thereto, with a locked safety lamp, and has found such places to be safe. After a shot has been fired, the shot-firer shall immediately return to the place at which such shot has been fired and satisfy himself that no dangerous condition has been produced by the firing of such shot. 1910, c. 37, s. 4; 1912, c. 62, s. 3.

(6) The Commissioner, upon representation made to him in writing by the owner, agent or manager of any mine that the finding of inflammable gas in quantity sufficient to show in a safety lamp on three consecutive days was exceptional in the case of such mine, and that the mine is damp and not dry or dusty, may cause an examination of such mine to be made by the Inspector, and if the Inspector approves, may

<sup>1</sup> The regulations mentioned in section (7a) have not yet been approved by the Governor in Council.



order that the provisions of clause (4) of this rule shall apply to such mine only if inflammable gas is found in quantity sufficient to show in a safety lamp on two consecutive days in each of two consecutive weeks. 1909, c. 51, s. 1.

(7) If the Inspector or Deputy Inspector together with any person experienced in the composition and use of explosives whom he associates with himself for the purpose, reports that any explosive is free from danger, the Governor in Council may order that the provisions of clause (4) of this rule shall not apply to such explosive until such time as such order is revoked. 1912, c. 62, s. 2.

(8) In the application of this rule to any mine which is divided into districts in such a manner that each district has an independent in-take and return air-way from the main air-course and the main return air-course, each of such districts shall be considered a separate mine.

(9) Unless tipped with copper or copper alloy, no iron or steel pricker or needle shall be used in charging holes for blasting with gunpowder or other explosive in a mine, nor shall any iron or steel tamping rod or stemmer, unless tipped as aforesaid, be used in a mine for ramming the charge or the tamping or stemming on the gunpowder or other explosive, nor shall any person have in his possession in a mine underground any iron or steel pricker or needle, tamping iron or stemmer, unless tipped as aforesaid.

Rule 9.—Where a place is likely to contain a dangerous accumulation of water, the working approaching such place shall not exceed eight feet in width or height, and there shall constantly be kept at a sufficient distance, not being less than five yards in advance, at least one bore-hole near the centre of the working and sufficient flank bore-holes on each side.

Rule 10.—Every underground plane on which persons travel, which is self-acting or worked by an engine, windlass or gin, shall be provided (if exceeding thirty yards in length) with some proper means of communicating distinct and definite signals between the stopping places and the ends of the plane, and shall be provided in every case, at intervals of not more than twenty yards, with sufficient man-holes or places of refuge, and every back or counter-balance used for raising or lowering coal or other minerals, if exceeding thirty yards in length, unless exempted in writing by the Inspector, shall be provided with some proper means of communicating distinct and definite signals between the lower end and between the entrance of every working place thereon for the time being in work, and the upper end thereof.

Rule 11.—(1) Every road on which persons travel underground where the produce of the mine in transit exceeds ten tons in any one hour over any part thereof, and where the load is drawn by a horse or other animal, shall be provided, where there is not standing room of at least two feet at intervals of not more than twenty-five yards, with sufficient man-holes, or with places of refuge, and every such place of refuge shall be of sufficient length and of at least three feet in width between the waggons running on the tramroad and the side of such road.

(2) Where the load is drawn by machinery or other mechanical appliances, and there is not standing room of at least two feet, there shall be provided at intervals of not more than fifteen yards sufficient man-holes or places of refuge, and every such place of refuge shall be of sufficient length and of at least three feet in width between the waggons running on the tramroad and the side of such road.

(3) Whenever in the opinion of the Inspector the precautions required by this rule with respect to roads over which the produce of the mine is drawn by machinery or other mechanical appliance are not sufficient for the safety of the men travelling thereon, he may require the owner, agent or manager of such mine to provide a separate travelling road.

Rule 12.—Every man-hole and every place of refuge shall be constantly kept clear and frequently white-washed, and no person shall place anything in a man-hole or place of refuge so as to prevent access thereto.

Rule 13.—The top of every shaft which for the time being is out of use or used only as an air shaft, shall be kept securely fenced, and in every such case the owner, agent or manager shall notify the Deputy Inspector, who shall report to the Commissioner as to the sufficiency of such fencing, and the Commissioner may require such further precautions for safety to be taken as may be deemed necessary. The Deputy Inspector shall inspect such fencing at least once every three months and shall take such measures as are required to secure compliance with this Rule.

Rule 14.—The top and all entrances between the top and bottom of every working, ventilating or pumping shaft shall be properly fenced; but this shall not be taken to forbid the temporary removal of the fence for the purpose of repairs or other operations if proper precautions are used.

Rule 15.—Where the natural strata are not safe, every working or pumping shaft shall be securely cased, lined or otherwise made secure.

Rule 16.—The roof and sides of every travelling road and working place shall be made secure, and every travelling road shall be of reasonable height and width, having regard to the nature of the workings, and no person, unless appointed for the purpose of exploring or repairing, shall be required or allowed to travel or work in any such travelling road or working place which is not so made secure. 1912, c. 62, s. 4.

Rule 17.—Every working shaft used for the purpose of drawing minerals or for the lowering or raising of persons shall, if exceeding fifty yards in depth, and not exempted in writing by the Inspector, be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft, and from every entrance for the time being in work, between the surface and the bottom of the shaft to the surface, and from the surface to the bottom of the shaft and to every entrance for the time being in use between the surface and the bottom of the shaft.

Rule 18.—A sufficient cover overhead shall be used for every cage or tub employed in lowering or raising persons in any working shaft, except where the cage or tub is worked by a windlass, or where persons are employed at work in the shaft, or where a written exemption is given by the Inspector.

Rule 19.—A single-linked chain shall not be used for lowering or raising persons in any working shaft or place except for the short coupling chain attached to the cage or load.

Rule 20.—There shall be on the drum of every machine used for lowering or raising persons such flanges, or horns, and also, if the drum is conical, such other appliances as are sufficient to prevent the rope from slipping.

Rule 21.—There shall be attached to every machine worked by steam, water or mechanical power, and used for lowering or raising persons, an adequate brake and also a proper indicator (in addition to any mark on the rope) showing the person who works the machine the position of the cage or load in the shaft.

Rule 22.—(1) Where there is a shaft or an inclined plane or level in any mine, whether for the purpose of an entrance to such mine, or a communication from one part to another part in such mine, and persons are taken up or down along such shaft, plane or level by means of any windlass or gin driven or worked by an animal, or by manual labour, no person shall be allowed to have charge of such windlass or gin, or any part of the machinery, ropes, chains or tackle connected therewith, unless he is a male person of at least eighteen years of age.

(2) Where the windlass or gin is worked by an animal, the person under whose direction the driver of the animal acts shall for the purpose of this rule be deemed to be the person in charge of the windlass or gin; but such driver shall not be under fourteen years of age. This sub-section of this rule shall not apply to operations known in the mines as counter or back balances.

Rule 23.—Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be and be kept securely fenced.

Rule 24.—Every steam boiler shall be provided with a proper steam gauge, and water gauge, to show respectively the pressure of steam and height of water in the boiler, and with a proper safety valve.

Rule 25.—A ladder permanently used for the ascent or descent of persons in the mine shall not be fixed in a vertical or over-hanging position, and shall be inclined at the most convenient angle which the space in which the ladder is fixed allows; and every such ladder shall have substantial platforms at intervals of not more than twenty yards.

Rule 26.—If more than twelve persons are ordinarily employed in the mine below ground, sufficient accommodation shall be provided above ground near the principal entrance of the mine, and not in the engine house or boiler house, for enabling the persons employed in the mine to conveniently dry and change their dresses.

Rule 27.—When one portion of the shaft is used for the ascent and descent of persons by ladders or otherwise, and another portion is used for raising the material gotten in the mine, the first mentioned portion shall be either cased or otherwise securely fenced off from the last mentioned portion, or no person shall be permitted to travel in the shaft when the shaft is working.

Rule 28.—No person shall wilfully damage, or without proper authority, remove or render useless, any fence, fencing, casing, ladder, platform, steam gauge, water gauge, cover, chain, flange, horn-brake, indicator, lining guide, means of signalling, signal, safety-valve or other appliance or thing provided for any mine in compliance with this Chapter.

Rule 29.—Every person shall observe such directions with respect to working as are given to him with a view to comply with this Chapter or the special rules in this Chapter provided for.

Rule 30.—A competent person or persons, who shall be appointed for the purpose, shall once at least in every twenty-four hours examine the state of the external parts of the machinery and the state of the head-gear, working-places, levels, planes, ropes, chains and other works of the mine which are in actual use, and once at least in every week shall examine the state of the shafts by which persons shall ascend or descend, and the guides or conductors therein.

Rule 31.—(1) In every coal mine, unless otherwise directed by the Inspector, the coal and the roof in every working place, during the operation of boring, holing or undercutting, shall be safely supported by sprags or wooden props or other support, and every miner or other person or persons charged with this duty neglecting to strictly comply with this provision shall be guilty of an offence against this Act, and may in addition to any other penalties to which he may be liable, have his certificate, if the holder of one, temporarily suspended or cancelled.

(2) A sufficient supply of timber or other material suitable for supports shall at all times be kept at suitable and practically convenient places.

(3) It shall be the duty of every underground manager, overman, and mine examiner employed in the daily underground operations of any mine to see that the provisions of sub-sections (1) and (2) of this rule are strictly carried out, and neglect to do so will be an offence against this Chapter.

(4) It shall be the duty of the Deputy Inspector for the district to forthwith report to the Commissioner the name of all persons holding certificates who are convicted of any offence under the provisions of this rule. 1914, c. 46, s. 5.

Rule 32.—The persons employed in a mine may, at their own cost, from time to time, appoint two of their number to inspect the mine, and the persons so appointed shall be allowed, once at least in every month, accompanied, if the owner, agent or manager of the mine thinks fit, by himself or one or more of the officers of the mine, to go to every part of the mine, and to inspect the shafts, levels, planes, working-places, return air-ways, ventilating apparatus, old workings and machinery, and shall be afforded by the owner, agent or manager and all persons in the mine every facility for the purpose of such inspection, and shall make a true report of the result of such inspection, and such report shall be recorded in a book to be kept at the mine for the purpose, and shall be signed by the persons who made the same.

Rule 33.—The majority of the workmen at any mine may appoint a committee, chosen from among themselves, to examine the seat of any accident resulting in death or injury to persons.

Rule 34.—Properly constructed ambulances or stretchers, with splints and bandages, shall be kept at the mine, ready for immediate use in case of accident.

Rule 35.—In any mine, which is usually entered by means of machinery, a certificated person of such age as is prescribed by this Chapter shall be appointed for the purpose of working the machinery which is employed in lowering and raising persons therein, and shall attend for such purpose during the whole time that any person is below ground in the mine.

Rule 36.—In every mine in which men are raised or lowered in a shaft, there shall be attached to the cage used for that purpose such safety appliances as may be agreed upon between the owner or manager of such mine and the Inspector of Mines.

Rule 37.—Every person who contravenes or does not comply with any of the general rules prescribed by this section shall be guilty of an offence against this Chapter; and in the event of any contravention of or non-compliance with any of such general rules in the case of any mine by any person whomsoever being proved, the owner, agent and manager shall each be guilty of an offence against this Chapter, unless he proves that he had taken all reasonable means to prevent such contravention or non-compliance by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine.

#### Special Rules.

47. (1) The owner, agent or manager of any mine may, if he thinks fit, transmit to the Inspector for approval by the Commissioner, rules (referred to in this Chapter as special rules), for the conduct and guidance of the persons acting in the management of such mine or employed in or about the same, as under the particular state and circumstances of such mine appear best calculated to prevent dangerous accidents and to provide for the safety and proper discipline of the persons employed in or about the mine.

(2) Such special rules when approved by the Commissioner, or if not objected to by him within forty days after the receipt of them by the Inspector, shall be signed by the Inspector, and shall be observed in and about every such mine in the same manner as if they were enacted in this Chapter.

(3) If any person who is bound to observe the special rules established for any mine, acts in contravention of or fails to comply with any of such special rules, he shall be guilty of an offence against this Chapter, and also the owner, agent and manager of such mine shall each be guilty of an offence against this Chapter, unless he proves that he had taken all reasonable means to prevent such contravention or non-compliance by publishing, and to the best of his power enforcing, such rules as regulations for the working of the mine.

### Special Rules to be Posted.

43. (1) The proposed special rules, together with a printed notice stating that any objection to such rules on the ground of anything contained therein or omitted therefrom, may be sent by any of the persons employed in the mine to the Inspector at his address, stated in such notice, shall during not less than two weeks before such rules are transmitted to the Inspector, be posted up in some conspicuous place or places at the mine, and a certificate that such rules and notice have been so posted up shall be sent to the Inspector with the rules signed by the person sending the same.

(2) If the owner, agent or manager makes any false statement with respect to the posting up of the rules and notices he shall be guilty of an offence against this Chapter.

(3) Every person who pulls down, injures or defaces any proposed special rules or notice when posted up in pursuance of the provisions of this Chapter, or any notice posted up in pursuance of the special rules, shall be guilty of an offence against this Chapter.

49. (1) If the Commissioner is of opinion that the proposed special rules so transmitted, or any of them, do not sufficiently provide for the prevention of dangerous accidents in the mine, or for the safety or convenience of the persons employed in or about the mine, or are unreasonable, he may, within forty days after the rules are received by the Inspector, object to the rules, and propose to the owner, agent or manager in writing any modifications in the rules by way either of omission, alteration, substitution or addition.

(2) If the owner, agent or manager does not, within twenty days after the modifications proposed by the Commissioner are received by him, object in writing to them, the proposed special rules with such modifications shall be in force.

(3) If the owner, agent or manager sends his objections in writing within the said twenty days to the Commissioner, the matter shall be referred to the Governor in Council, and the date of receipt of such objection by the Commissioner shall be deemed to be the date of the reference; and the rules shall be established as settled by an order of the Governor in Council.

50. After the special rules are in force under this Chapter in any mine, the owner, agent or manager of such mine may, from time to time, propose in writing to the Inspector for the approval of the Commissioner any amendment of such rules or any new special rules, and the provisions of this Chapter with respect to the original special rules shall apply to all such amendments and new rules in like manner, as nearly as may be, as they apply to the original rules.

51. The Commissioner may, from time to time, propose in writing to the owner, agent or manager of a mine in which there are no special rules, and to the owner, agent or manager of a mine in which there are special rules, any new special rules, or any amendment to the special rules, and the provisions of this Chapter with respect to a proposal of the Commissioner for modifying the special rules transmitted by the owner, agent or manager of a mine, shall apply to all such proposed special rules, new special rules and amendments in like manner, as nearly as may be, as they apply to such proposals.

### Rules to be Supplied.

52. (1) For the purpose of making known the provisions of the Act and of any amendments thereto, to all persons employed in and about a mine, a prescribed abstract of the Act or of such parts of the same as are deemed necessary shall be supplied free of charge by the owner, agent or manager of any mine to any person on his being employed for the first time at any mine, and to any person employed in such mine who applies for the same.

(2) Copies of said abstract, so prescribed, shall, for the purposes of this section be supplied free of charge to the owner, agent or manager of any mine who applies for the same. 1914, c. 46, s. 6.

(3) Copies of any special rules shall be furnished under this section at the expense of the owner, agent or manager required to furnish the same.

(4) The owner, agent or manager of every mine shall cause a copy of all special rules, applicable to such mine, signed by the Inspector and owner, agent or manager, to be posted up in legible characters in some conspicuous place at or near the mine, where they may be conveniently read by the persons employed, and so often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable despatch. 1912, c. 62, s. 5.

(5) Any owner, agent or manager who fails to comply with this section shall be guilty of an offence against this Chapter, unless he proves that he has taken all reasonable means by enforcing the observance of this section to prevent such non-compliance.

53. The Inspector shall, when required, certify a copy which is shown to his satisfaction to be a true copy of any special rules which for the time being are in

force under this Chapter in any mine; and a copy so certified shall be evidence (but not to the exclusion of other proof) of such rules, and of the fact that they have been signed by the Inspector and brought into force under this Chapter.

#### Submarine Areas.

54. (1) In the working of coal or stratified deposits in submarine areas, the following provisions shall apply:

(a) No submarine seam of coal or stratified deposits shall be wrought under a less cover than one hundred and eighty feet of solid measures;

Provided, that the owner or lessee of any such area may drive passage ways to win the mineral to be wrought under a less cover than one hundred and eighty feet, but not less than one hundred feet of solid measures;

(b) A barrier of the mineral wrought of not less than fifty yards, twenty-five yards on both sides of the boundary lines of every lease, shall be left unwrought between the workings of every submarine seam;

(c) Where there is less than five hundred feet of solid measures overlying the seam or stratified deposit wrought, the workings of every such submarine area shall be laid off in districts of an area not greater than half of one square mile, and the barrier enclosing each separate district shall not be less than thirty yards thick, and shall not be pierced by more than four passage ways having a sectional area not greater than nine feet wide and six feet high; Provided that the Inspector may, if he deems it necessary, permit the said passage ways to be driven with a cross section, not exceeding sixty square feet;

(d) No district shall have its length when parallel to the general trend of the adjoining shore greater than one mile;

(e) A proposed system of working the mineral in each submarine area shall before work is commenced be submitted to and approved of by the Inspector; and no change shall be made in such approved system without the written sanction of the Inspector;

(f) The opening of a new lift or level in a mine already working in a submarine area shall be deemed the commencement of a new winning within the meaning of the section.

(2) The owner, agent or manager of any mine to which this section applies, who contravenes or fails to comply with any provision of this section, shall each be liable to a penalty not exceeding one thousand dollars, and if the offence complained of is continued or repeated after a written notice has been given by the Inspector to such owner, agent or manager, of any such offence having been committed, the Supreme Court, or a judge thereof, whether any other proceedings have or have not been taken, may, upon application by the Attorney-General, prohibit by injunction the working of such mine; Provided that the Commissioner may waive or modify any of the provisions of this section when, on the report of the Inspector, it appears to his satisfaction that valuable coal areas cannot be otherwise wrought or mined. 1910, c. 38, s. 1.

#### Notices.

55. All notices required by this Chapter shall be in writing or print, or partly in writing and partly in print; and all notices and documents required by this Chapter to be served or sent by or to the Commissioner or Inspector, may be either delivered personally or served and sent by post by a prepaid registered letter; and if served or sent by post, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notice was properly addressed and put in the post.

#### Penalties.

56. Every person employed in or about a mine other than an owner, agent or manager, who is guilty of an act or omission which in the case of an owner, agent or manager would be an offence against this Chapter, shall be guilty of an offence against this Chapter.

57. (1) Every owner, agent or manager, underground manager or overman, who is guilty of an offence against this Chapter, shall be liable to a penalty not exceeding eighty dollars, except as in this Act otherwise provided.

(2) If such offence is committed or continued after notice thereof given by the Inspector, a further penalty of five dollars for each violation or for each day that such violation continues after such notice, shall be imposed.

58. Every person other than an agent, owner, manager, underground manager or overman who is guilty of an offence against this Act shall be liable to a penalty of not less than five, or more than twenty-five dollars. 1914, c. 46, s. 7.

59. No prosecution shall be instituted against any owner, agent, manager, underground manager or overman for an offence against this Chapter, except:

(a) By the Inspector, or

- (b) With the consent in writing of the Commissioner, or
- (c) By some person appointed by the Commissioner, or
- (d) By some person employed in or about the mine in respect to which the offence was committed.

60. If it appears that a boy was employed on the representation of his parent or guardian that he was of the age at which his employment would not be a contravention of this Chapter, and under the belief and good faith that he was of such age, the owner, agent or manager of the mine shall, notwithstanding the boy was not of such age, be exempt from any penalty in respect to such employment, and the parent or guardian shall, for the misrepresentation, be deemed guilty of an offence against this Chapter.

61. In any prosecution or other proceeding against an owner, agent, manager, underground manager or overman, for an offence against this Chapter, such owner, agent, manager, underground manager or overman shall be discharged if he proves to the satisfaction of the tribunal before which the same is tried, that he took all reasonable means to prevent the commission of such offence.

62. Any complaint or suit made or brought in pursuance of this Chapter shall be made or brought within six months from the time when the matter of such complaint or suit came to the knowledge of the prosecutor.

63. Where a penalty is imposed under this Chapter for neglecting to send a notice of any explosion or accident, or for any offence against this Chapter, which has occasioned loss of life or personal injury, the Commissioner may (if he thinks fit) direct such penalty to be paid to or distributed among the persons injured and the relatives of any persons whose death has been occasioned by such explosion, accident or offence, or among some of them; Provided, that such persons did not in his opinion occasion or contribute to occasion the explosion or accident, and did not commit and were not parties to the commission of the offence.

#### Stationary Engineers.

64. For the purpose of granting certificates of competency to stationary engineers and licenses to firemen, the Governor in Council may appoint a Board of Examiners, who shall examine into the qualifications of all persons applying for such certificates or licenses. [Sections 64 to 88 inclusive as amended by 1914, c. 46, s. 8.]

65. All certificates shall be signed by the Commissioner after being countersigned by the Chairman or some authorized member of the Board in his place.

66. The Board of Examiners shall consist of the Inspector of Mines and not more than four other qualified persons, who shall hold office during good behaviour.

67. Examinations shall be held at such times and places in different parts of the province, and under such regulations as the Governor in Council prescribes.

68. The fees and travelling expenses to be paid to the Board of Examiners, and the fees to be paid by applicants for certificates or licenses shall be determined by the Governor in Council.

69. A register of the persons holding certificates as stationary engineers and licenses as firemen shall be kept at the office of the Commissioner, by such person and in such manner as he from time to time directs.

70. The Board of Examiners may, after examination, issue to engineers three classes of certificates of competency, to be known as first-class, second-class and third-class respectively.

71. Every person applying for examination for a certificate or license under this Act shall,—

(a) for a Stationary Engineer, be not less than eighteen years of age, and for a Fireman be not less than eighteen years of age;

(b) fill up in his own handwriting the form of application furnished by the Board of Examiners, which shall contain the name, age and place of residence of the applicant, the nature of his employment for three years previous to the date of application, and the place and places where he has been employed; and

(c) furnish satisfactory certificates as to his service, sobriety and general good character.

72. All applications for examination shall be made to the Commissioner of Public Works and Mines at his office in Halifax at least ten days before the date fixed for the holding of said examination.

73. No person shall be eligible for examination for a third-class certificate, unless—  
(a) he is the holder of a license as a fireman, or has served for not less than six months as fireman; or

(b) has served at least twelve months as engineer, assistant engineer, pumpman, oiler or locomotive engineer; or

(c) has served at least eighteen months at mechanical work in a machine shop.

74. No person shall be eligible for examination for a second-class certificate unless—

(a) he is at least twenty-one years of age; and

(b) is the holder of a third-class certificate, and has been employed as a third-class engineer for not less than one year.



75. No person shall be eligible for examination for a first-class certificate unless—

(a) he is at least twenty-four years of age; and

(b) is the holder of a second-class certificate and has served one year at mechanical work on mine machinery, and has for one year been in charge of a hoisting or haulage engine, or for two years in charge of a colliery engine other than the engine last above specified; or

(c) is the holder of a second-class certificate, and has been engineer in charge of a steam plant for twelve months, or has served at mechanical work in a machine shop for three years.

76. Every engineer in charge of a steam plant of not less than one hundred and not more than three hundred horse-power shall be the holder of at least a third-class certificate.

77. Every engineer in charge of a steam plant of not less than three hundred and not more than eight hundred horse-power, shall be the holder of at least a second-class certificate.

78. Every engineer in charge of a steam plant of over eight hundred horse-power shall be the holder of a first-class certificate.

79. Every person serving as engineer in charge of an engine of not more than three hundred horse-power, used for lowering persons in and out of a mine, or for moving men therein, shall be the holder of at least a third-class certificate, and if such engine is over three hundred horse-power, the person serving as engineer in charge thereof shall be the holder of at least a second-class certificate.

80. Every person employed as engineer in charge of an engine of not less than seventy-five horse-power used for the purpose of ventilating a mine, and upon the movement or operation of which the safety of any person or persons depends, shall be the holder of at least a third-class certificate.

81. On every steam plant of five hundred horse-power or over there shall be on duty in the fire room at all times, while all or any part of the plant is under steam, a licensed fireman or an engineer who holds at least a third-class certificate.

82. Every person employed as engineer in charge of an engine or other machine of not less than twenty-five horse-power, used for the purpose of ventilating a mine, and upon the movement or operation of which the safety of any person or persons depends, shall be the holder of at least a third-class certificate of competency, or a certificate of service equivalent thereto.

83. On every steam plant of five hundred horse-power or over there shall be on duty in the fire room at all times, while all or any part of the plant is under steam, a licensed fireman, or an engineer who holds at least a third-class certificate of competency or a certificate of service equivalent thereto.

84. Every person who has since 1894 been employed as engineer in charge of a steam plant of not less than 500 horse-power, for not less than three years, shall, upon satisfying the Board of Examiners as to his sobriety and general good character, and upon furnishing proof of such service, be entitled to receive from the Board of Examiners a certificate of service, which shall be equivalent in every respect, under the provisions of this Chapter, to a first-class certificate of competency.

85. Every person who has since 1894 been employed as engineer in charge of a steam plant of not less than 200 horse-power, for not less than three years, and every person who has since 1894 served for not less than three years as engineer of a stationary engine of not less than 1,000 horse-power, or of an engine of not less than 25 horse-power used for the purpose of hoisting, lowering or moving men, shall, upon satisfying the Board of Examiners as to his sobriety and general good character, and upon furnishing to the said Board of Examiners satisfactory proof of such service, be entitled to receive from the Board of Examiners a certificate of service, which shall be equivalent in every respect, under the provisions of this Act, to a second-class certificate of competency.

86. Every person who since 1894 has been employed as engineer in charge of a steam plant of not less than 25 horse-power for not less than three years, and every person who has since 1894 served for not less than three years as engineer in charge of a stationary engine of not less than 100 horse-power used for the purpose of hoisting or lowering material in or out of a mine, but not used for hoisting, lowering or moving men, and the movements of which are controlled by such engineer according to signals received by bells or other device, or as engineer in charge of an engine of not less than 25 horse-power used for the purpose of ventilating a mine or other work, shall, upon satisfying the Board of Examiners as to his sobriety and general good character, and upon furnishing to the said Board of Examiners satisfactory proof of such service, be entitled to receive from the Board of Examiners a certificate of service, which shall be equivalent in every respect under the provisions of this Act, to a third-class certificate of competency.

87. Every person who has served for not less than one year as a fireman at a steam boiler, and who satisfies at least one member of the Board of Examiners



after an oral examination that the applicant has a sufficient knowledge of boilers to have charge of them, shall, upon satisfying the Board as to age and character, be entitled to receive from the Board of Examiners a license as a fireman.

88. All certificates of service and of competency and of licenses to firemen granted by the Commissioner of Mines on the recommendation of the Board of Examiners before the coming into force of this amending Act, shall be of the same force and effect as if granted under the provisions of this amending Act, and are hereby ratified and confirmed and declared to be valid.

#### Penalties.

89. Every owner, agent or manager of a mine who violates or fails to comply with, or permits any person to violate or fail to comply with, any of the provisions of sections 76, 77, 78, 79, 80, 81, 82 and 83 of this Act, shall be liable to a penalty of not less than one hundred nor more than two hundred dollars. 1914, c. 46, s. 9.

90. Every person who gives any false certificate of employment, or other certificate to be used under the provisions of this Act, shall be liable to a penalty of not less than twenty nor more than fifty dollars.

#### Miscellaneous.

91. Every person who at the time of the coming into force of this Act is employed in charge of a steam plant, engine or other machine which comes under the provisions of this Act shall, upon producing satisfactory proof of such service, and as to his sobriety and general good character, be entitled to receive from the Board of Examiners a permit which shall allow such person, notwithstanding the provisions of this Act, to continue in charge of the steam plant, engine or machine on which he was then employed for a period of twelve months from the coming into force of this Act.

92. In this Act the expression "engineer in charge of a steam plant" means the person having the control and daily supervision of all machinery and boilers at any mine.

93. In case of any dispute as to the horse-power of any engine the decision of the Commissioner shall be final.

94. The provisions of sections 6, 7 and 8 of this Act shall be applicable to every certificate issued under the provisions of this Act.

95. (Repealed 1914, c. 46, s. 10).

96. On the recommendation of any member of the Board of Examiners appointed under the provisions of this Chapter relating to stationary engineers, the Inspector may grant special permits to engineers to take charge of a steam plant and engineers to take charge of stationary engines for limited periods, which permits shall for the time therein specified be in all respects equivalent to certificates of service or competency for the purposes mentioned in such permits. No such special permit shall be valid after the holding of the regular examination of candidates for engineers' certificates next following the granting of such special permit. 1911, c. 30, s. 6.

97. The foregoing sections numbered 70 to 96, relating to stationary engineers, both inclusive, shall not apply in any mine where less than twenty men are employed underground, unless otherwise required by the Commissioner. 1909, c. 51, s. 2.

98. Any person applying for a certificate of service or competency under this Act shall appear in person before the Board and undergo an oral examination, if the Board deem it necessary.

99. Any person applying for a certificate of service or competency shall affirm or swear to the correctness of his statement in his application as to the length of the periods of time he has been employed.

100. None of the provisions of this Act, relating to stationary engineers, shall apply to persons working mechanical haulage engines underground, whose power is furnished by compressed air.

101. The Acts mentioned in the following schedule are repealed.

#### Rules, etc.

102. (1) The Governor in Council may from time to time—

(a) make such further or additional rules, regulations or orders, not inconsistent with this Act or with the "Mines Act" as may be deemed necessary or expedient, respecting the use of electricity in any mine or mines, and

(b) make such further or additional regulations, rules or orders as may be deemed necessary and expedient in the interests of safety, and

(c) make and prescribe such forms and regulations as may be deemed necessary and expedient for the purpose of properly carrying out the provisions of this Act.

(2) All such rules, regulations or orders so made shall after the first publication thereof in the Royal Gazette have the force of law.<sup>1</sup> 1915, c. 29, s. 1.

<sup>1</sup> Under the authority of this section, detailed rules and regulations respecting the installation and use of electricity in the coal mines of the province have been issued with a view to promoting the safety of persons employed in such mines.

## SCHEDULE.

(Acts repealed.)

|                             |                     |
|-----------------------------|---------------------|
| Revised Statutes, 1900..... | Chapter 19          |
| Acts of 1901.....           | Chapter 27          |
| Acts of 1902.....           | Chapters 5 and 6    |
| Acts of 1903-4.....         | Chapter 2           |
| Acts of 1905.....           | Chapters 13 and 14  |
| Acts of 1906.....           | Chapter 18          |
| Acts of 1907.....           | Chapters 35, 36, 37 |

## SCHEDULE.

(Section 37.)

Form of Notice of Explosion or Accident to be sent to the Commissioner of Mines.

Name of Mine.....

Date.....

To the Honourable the Commissioner of Public Works and Mines:

Halifax, N. S.

Sir:—In pursuance of "The Coal Mines Regulation Act," I beg to give you notice that an explosion (or accident) has occurred at this mine, of which the following are the particulars:—

Place where the accident occurred.....

Date of the accident.....

Character of the accident.....

If from explosion, whether of gas, explosive or steam boiler.....

Number, ages and names of persons killed.....

Number and names of persons injured seriously.....

Number and names of persons injured slightly.....

Number and relation of persons dependent on persons killed.....

I am, Sir,

Your obedient servant,

[Signature] .....

## STATUTES OF 1909.

## Protection of Employees as Voters.

Chapter 6.—94. Every person who, directly or indirectly, by himself, or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens the infliction by himself or by or through any other person of any injury, damage, harm or loss, or in any manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who by abduction duress or any fraudulent devise or contrivance impedes, prevents or otherwise interferes with the free exercise of the franchise of any voter, or thereby compels, induces or prevails upon any voter either to give or refrain from giving his vote at any election, shall be deemed to have committed the offence of undue influence, and shall be liable to forfeit the sum of two hundred dollars to any person who sues for the same, with costs.

## STATUTES OF 1910.

**Inspection and Regulation of Factories—Sanitation.**

[Chapter 6, the Public Health Act, section 9, enumerates in a number of clauses the subjects for which the provincial health officer may provide by regulations. Among these, since section 2 defines "house" as including factories and other buildings used for human work, the following should be noted:—]

(c) For cleansing, purifying, ventilating and disinfecting houses, school houses, churches, buildings and places of assembly, by the owner or the person having the care thereof;

[Section 19 subsection (3), added by 1915, chapter 31, section 5, enumerates in a number of clauses the subjects respecting which a local health board may make regulations not inconsistent with the Act. Among these are the following:—]

(b) Plumbing and drainage of buildings and premises;

(h) Sanitary conduct of laundries, barber shops, meat and provision shops, bakeries and confectionery shops. 1915, c. 31, s. 5.

[Section 32 amended by 1915, chapter 31, section 10, defines the duties of medical health officers. Among these duties are the following:—]

(c) To regulate the location, construction, repair, use, emptying and cleaning of all water closets, privies, cess pools, sinks, plumbing, drains, yards, pens, stables, or other places where offensive or dangerous substances or liquids do or may accumulate.

(h) To render the Factories Inspector such assistance as is implied in section 8 (2) of the Nova Scotia Factories Act. 1915, c. 31, s. 10.

## STATUTES OF 1911.

**Employment of Children—School Attendance.**

Chapter 2.—115. In every school section in which the resolution has not already been adopted, the chairman of every annual school meeting held under the provisions of this Act shall call upon the qualified voters present at such meeting to vote yea and nay on the resolution embraced in the fourth schedule. [Resolved, that the provisions respecting compulsory attendance be made operative.]

116. (1) Where a majority of the qualified voters present have voted in favour of the resolution embraced in such schedule, it shall be the duty of the trustees of schools.

(a) to ascertain through their secretary or other person or persons appointed for that purpose, before the first day of August following the school meeting, the names and ages of all children residing in the section between the ages of seven and twelve years inclusive, and the names of their parents or guardians, and to preserve carefully prepared lists of the same;

(b) to ascertain as soon as possible after the first day of April in every year how many of the children named in such list have not been at school for eighty full days during the then current school year, and to notify the parents or guardians of such children of the exact number of days their children respectively have attended school from the first of the school year until the first day of April;

(c) to ascertain as soon as possible after the close of the school year how many of the children of the section have not attended school during the school year for one hundred and twenty full days.

(2) The trustees shall collect from the parents or guardians of such children the sum of two dollars for each child who has attended school no portion of the year, and pro rata in the case of each child who has attended school but has not reached the period of one hundred and twenty full days.

118. The trustees shall exempt from the payment of such sums parents or guardians who can show that their children are being properly educated otherwise than in the public schools, or whose children are by reason of delicate health, or being distant over two miles from a school, or other sufficient cause, prevented from attendance.

119. Parents or guardians who have required by the trustees to pay any sums for non-attendance of children at school under the provisions of this Act may, upon notice to the secretary of the time and place of such application, apply within ten days after their being so required, to any stipendiary magistrate residing in the section, or if there is no stipendiary magistrate in such section to any justice of the peace, who after hearing evidence in such case may remit such payment or reduce the amount thereof.

**Protection of Employees in Mines.**

Chapter 10.—7. It shall be the duty of the Inspector [of Mines] and of the deputy inspectors, under his direction,—

(a) to visit and inspect, from time to time, the various mines belonging to, or under license or lease from, the Crown;

(b) to ascertain that the laws, stipulations and agreements relative to the working and management of such mines, and to the payment of rent and royalties, accruing therefrom, are complied with, and that the mines are being worked in a scientific, workmanlike and effective manner, and with due regard to the maintenance of the value of such mines, and to the safety and protection of the persons employed therein;

(c) to report from time to time to the commissioner in regard to such matters.

### **Fair Wages for Employees in Mines operated by Provincial Government.**

[Chapter 10, section 57, as amended by 1914, chapter 57, section 3, provides that whenever any mine lease becomes forfeited under the provisions of the act, and it becomes necessary in the interests of the Crown, that the area covered by such lease and the plant connected therewith should be taken possession of on behalf of the Crown, the Commissioner of Public Works and Mines shall take possession of such area. Section 58, as amended by 1914, Chapter 10, sections 4 and 5, empowers the Commissioner under certain circumstances to operate any mine in such area. He is also empowered to employ skilled and other workmen for the purpose, and if necessary to require the assistance of any person; and any person who has been required to assist the Commissioner and who neglects to do so without reasonable excuse is liable to a penalty of not less than one hundred dollars, and in default of payment to imprisonment for not less than three months.]

Section 59 provides for the remuneration of those employed as follows:—]

59. All persons so employed by, or required to assist the Commissioner, shall be paid such wages or remuneration as shall be fixed by the Commissioner, not, however, to be less than the usual and customary wages paid at such mine for the respective classes of services performed.

### **Protection of Employees on Street Railways—Enclosed Platforms.**

Chapter 11.—7. On and after the first day of December in the year nineteen hundred and eleven, all street cars in use for the transportation of passengers in the months of November, December, January, February and March in each year, shall have their platforms all enclosed in such manner as to protect the motorman, conductors or other employees who operate such cars, from exposure to wind and weather in such manner as the Board shall approve.

8. A street railway company which fails or neglects to comply with the provisions of the preceding section shall be liable to a penalty of not more than twenty-five dollars for each day during which such neglect continues.

### **Street Railways—Air Brakes—Seats for Motormen—Qualifications of Employees.**

Chapter 11 with amendments.—16. (a) On and after March 1, 1915, all cars thirty feet or more in length shall be equipped with efficient air brakes and with suitable seating arrangements for the use of the motorman, while operating such cars; provided, however, that the Board may specify districts in which the seats may not be used by the motormen. 1914, c. 58, s. 2, part.

[Cars less than thirty feet in length are to be equipped with brakes of the kind approved by the Board of Commissioners of Public Utilities. 1913, c. 52, s. 1.]

16. (b) No person shall be employed as a motorman or conductor on any street railway in any city, town or municipality, unless he has first either within or without the province received instructions under the direct supervision of a regularly employed inspector, motorman or conductor for the period of fourteen days. 1914, c. 58, s. 2, part.

16. (c) Every street railway company which fails or neglects to comply with any of the provisions of Sections 16 (a) and 16 (b) hereof shall be liable to a penalty of not more than \$25 for each day during which such failure or neglect continues, which penalty shall be enforceable under the provisions of the "Nova Scotia Summary Convictions Act." 1914, c. 58, s. 2, part.

17. This Act shall apply to the Halifax Electric Tramway Company, Limited, only.

## **STATUTES OF 1912.**

### **Hours of Labour for Young Persons in Shops—Seats for Female Employees, etc.**

[Chapter 4, The Children's Protection Act, which contains provisions dealing with the employment of children, seats for female employees in shops, etc., is replaced by Chapter 2, 1917.]

## STATUTES OF 1913.

## Woodmen's Liens.

Chapter 4.—1. This Act may be cited as "The Woodmen's Lien Act."

## Interpretation.

2. In this Act, unless the context otherwise requires, the expression,

(1) "logs and timber" includes logs, timbers, telegraph poles, railway ties, pulp-wood, shingle bolts or staves or any of them, and fence posts and cordwood while lying piled for shipment by rail or water.

(2) "Labour, service or services" includes cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting or booming any logs or timber and any work done by cooks, blacksmiths, artisans and others usually employed in connection therewith.

(3) "Judge" means a judge of any of the County Courts in Nova Scotia.

3. Every agreement or bargain, verbal or written, expressed or implied, which has heretofore been made or entered into or which may hereafter be made or entered into on the part of any workman, servant, labourer, mechanic or other person employed in any kind of manual labour intended to be dealt with in this Act, by which it is agreed that this Act shall not apply or that the remedies provided by it shall not be available for the benefit of any person entering into such agreement, is hereby declared to be null and void and of no effect as against any such workman, servant, labourer, mechanic or other person.

(2) This section shall not apply to any foreman, manager, officer or other person whose wages are more than \$3 a day, exclusive of board and lodgings.

4. Any person performing any labour, service or services in connection with any logs or timber within this province shall have a lien thereon for the amount due for such labour, service or services; and the same shall be deemed a first lien or charge on such logs or timber and shall have priority over all other claims or liens thereon except any lien or claim which the Crown may have upon such logs or timber.

5. (1) The lien provided for in section 4 shall not continue to be a charge on the logs or timber after the time within which the statement of claim hereinafter provided for is required to be filed, unless such statement, verified upon oath by the person claiming such lien or some one duly authorized on his behalf, shall be filed as herein-after directed.

(2) Such statement shall be in writing and shall be filed in the office of the Clerk of the County Court of the county in which the labour or service or some part thereof has been performed.

(3) Provided that when such labour or services have been performed upon any logs or timber got out to be run down, or which have been run down any of the rivers or streams within Nova Scotia, such statement may at the option of the claimant be filed in the office of the Clerk of the County Court of the county wherein the drive terminates or reaches its destination.

6. Such statement shall set out briefly the nature of the debt, demand or claim, the amount due to the claimant as near as may be over and above all legal set-offs or counter-claims, and a description of the logs or timber upon or against which the lien is claimed and may be in the form A set out in the schedule to this Act or to the like effect.

7. If such labour, service or services be done between the first day of October and the first day of April next thereafter the statement of claim shall be filed on or before the thirtieth day of April next thereafter; but if such labour or services or any part thereof be done or performed on or after the first day of April and before the first day of October in any year, then such statement shall be filed within thirty days after the last day upon which labour or services or some part thereof were performed.

8. No mortgage, sale or transfer of the logs or timber upon which a lien is claimed under this Act made during the time limited for the filing of such statement of claim and previous to the filing thereof or after the filing thereof and during the time limited for enforcement thereof, shall in any wise affect such lien; but such lien shall remain and be in force against such logs or timber in whosoever possession the same shall be found.

9. Any person or persons having a lien upon or against any logs or timber under this Act may enforce the same by action in the County Court where such statement of lien is filed; and such action may be commenced to enforce such lien if the same be due immediately after the filing of such statement, or if credit has been given immediately after the expiry of the period of credit; and such lien shall cease to be a lien upon the property named in such statement unless the proceedings to enforce the same be commenced within thirty days after the filing of the statement of claim or within thirty days after the expiry of the period of credit. In all such actions the person, company or corporation liable for the payment of such debt or claim shall be made the party defendant.

10. There shall be attached to or indorsed upon the writ of summons a copy of the lien claim as hereinbefore provided; and no other statement of claim shall be necessary unless ordered by the court or judge; and except as herein otherwise provided the practice shall be that of the county courts; writs may be served anywhere in the province in the same manner as in other cases, and the judgment shall declare that the same is for labour or services, the amount thereof and costs, and that the plaintiff has a lien therefor and the property described when such is the case.

11. When an execution has issued and has been placed in the sheriff's hands for execution and no attachment has been issued, the proceedings for the enforcement of the lien shall be by sale under the execution, and the proceedings relating to proof of other claims, and the payment of other money into court and the distribution of money and otherwise shall as far as practicable be the same as hereinafter provided for proceedings upon and subsequent to an attachment.

12. (1) The judge may direct that any action brought to enforce a lien under the provisions of this Act shall be disposed of summarily by him in chambers without waiting for the regular sitting of the court upon such terms as to notice and otherwise as the order shall provide and the same was to be so heard and disposed of.

(2) The judge may also entertain in chambers any application to set aside an attachment or seizure or to release logs or timbers that have been seized, and may summarily dispose the same.

13. Where the amount of any claim whereon action has been commenced as aforesaid is not less than \$10, upon the production and filing of a copy of said claim and affidavit and of an affidavit made and sworn by the claimant of the amount of the claim due and owing and showing that the same has been filed as aforesaid and stating that:

(a) he has good reason to believe and does believe that the logs or timber are about to be removed out of Nova Scotia; or

(b) that the person indebted for the amount of such lien has absconded from the province with intent to defraud or defeat his creditors; or

(c) that the logs or timber are about to be cut into lumber or other timber so that the same cannot be identified;

(d) and that he is in danger of losing his said claim if an attachment do not issue;

and affidavit and of an affidavit made and sworn by the claimant of the amount of (b) and (c) of this section be also filed, then the judge of the proper county court may on application made to him *ex parte* direct the clerk to issue a writ of attachment directed to the sheriff of such court, commanding such sheriff to attach, seize, take and safely keep such logs or timber, or a sufficient portion thereof, to secure the sum mentioned in the said writ and the costs of the action and of the proceedings to enforce the lien, and to return the writ forthwith to the court out of which the same is issued.

14. Where additional claims are made, or the amount of claim is increased, or sufficient seizure has not been made, a second or subsequent seizure may be made either under execution or attachment.

15. A copy of the writ of attachment shall be served upon the defendant; and if the defendant in such attachment is not the owner of the logs or timber described in the writ of attachment, then a copy of the writ shall also be served upon the owner of said logs or timber or upon the agent or person in whose possession, custody or control for him they may be found; the owner may on his own application or by the direction of a judge be made a party defendant at the trial.

16. In case the defendant or owner cannot be found within the province, or the owner cannot be ascertained, and no agent or person is in possession for the owner, the writ may be served in such a manner as the judge shall by order direct.

17. No sheriff shall seize upon or detain any logs or timber under the provisions of this Act when in transit by water from the place where cut to the place of destination.

18. In case of an attachment, if the owner of said logs or timber, or any person in his behalf, shall execute and file with the clerk of the court out of which the attachment has been issued a good and sufficient bond to the person claiming the lien, executed by two sureties and conditional for the payment of the claim and of all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings, together with the amount for which a lien is claimed in any other action, if any, the judge may, upon application, *ex parte*, if satisfied as to the sufficiency of the bond, issue an order to the sheriff having in charge the logs or timber, directing their release; and upon service of such order upon the sheriff he shall release the same.

19. Any person who shall have been served with a copy of the writ of attachment under this Act and who may desire to dispute the same shall, within twenty days

after such service enter, in the court in which proceedings are pending a notice that he or they dispute the claim upon the lien in whole, or in part, or file a statement of defence as the practice of the county court may require.

20. The defendant may at any time after service of the writ of attachment, and before the sale of the logs or timber, pay into court the amount for which a lien is claimed in the action, together with the amount for which a lien is claimed in any other action, if any, and together with the costs of the proceedings thereon to the date of such payment taxed by the judge if so required; and the person making such payment shall thereupon be entitled to a certificate vacating such lien; and upon said certificates being filed with the Clerk of the County Court in which the original statement of claim was filed, the said lien shall be vacated and all further proceedings thereon shall cease, and the person making such payment shall further be entitled to an order directing the delivery up of the logs or timber seized under the attachment or the cancellation of any bond given under section 18 of this Act.

21. After the expiration of the time hereinbefore named within which notice of dispute may be entered or statement of defence filed, the judge shall, in chambers, as provided by section 12 of this Act or at the next sitting of the court, after due notice to all parties to the action and to all persons claiming liens on the logs or timber, and whose liens are duly filed as aforesaid, or to their solicitors, hear all such parties and claimants and take all accounts necessary to determine the amounts, if any, due to them or any of them or to any other holders of liens who may be called by the judge to prove their liens, and shall tax to them their costs and determine by whom the same shall be payable and settle their priorities and generally determine all such matters as may be necessary for the adjustment of the rights of the several parties.

22. At the conclusion of the inquiry the judge shall make his report and order which shall state his findings and direct the payment into the court in which proceedings are pending of the amounts, if any, so found due, and the costs, within ten days thereafter; and in default of such payment that the logs or timber shall be sold by the sheriff for the satisfaction of the amount found due to the several parties upon the inquiry and costs.

23. In default of payment into court under the last preceding section, within the time named therein, the said logs or timber shall within twenty days thereafter be sold by the sheriff, holding the same in the manner and subject to the same provisions of law as goods and chattels seized or taken in execution, unless the judge shall direct that additional publicity be given to the sale; and the amount realized by such sale shall, after deducting the expenses thereof payable to the sheriff, be paid into the court in which the proceedings are pending, and shall, upon the application of the several parties found to be entitled thereto under the order of the judge, be paid out to them by the clerk of the said court. Provided that where the amount realized upon the sale shall not be sufficient to pay the claims in full and costs, the judge shall apportion the amount realized *pro rata* among the different claimants.

24. If after such sale and distribution of the proceeds thereof under the preceding section, any balance shall remain due to any person under the said order of the judge, judgment may be entered therefor against the person or persons by whom the claim was directed to be paid and execution may be issued thereupon as in the case of other judgments in the county court.

25. Where nothing shall be found due upon the several claims filed under this Act or upon the lien or liens in respect to which proceedings have been taken, the judge may direct by his said order that the lien or liens be discharged and the logs or timber released or the security given therefor be delivered up and cancelled, and shall also by such order direct payment forthwith of any costs which may be found due to the defendant or owner of the said logs or timber.

26. Where more money shall be paid into court as the proceeds of the sale of logs or timber than shall be required to satisfy the liens which shall have been proved, and the interest and costs, the remaining moneys shall be paid over to the party entitled to the same unless the judge otherwise orders.

27. Any person affected by proceedings taken under this Act may apply to the judge to dismiss the same for want of prosecution, and the judge may make such order upon the application as to costs or otherwise as may be just.

28. The judge may at any stage of such proceedings on the application of any party, or as he may see fit, order that any person who may be deemed a necessary party to any such proceedings be added as a party thereto or be served with any process or notice provided for by this Act; and the judge may make such order as to the costs of adding such person or corporation or as to such service as may be just.

29. Nothing in this Act contained shall be deemed to disentitle any person to any other remedy than that afforded by this Act for the recovery of any amount due in respect of labour or services performed upon or in connection with any logs or timber; and where action is brought to enforce a lien, but no lien be found to exist, judgment may be directed for the amount found due as in an ordinary case.



30. Any number of lien holders may join in taking proceedings under this Act, or may assign their claims to any one or more persons; but the statement of claims to be filed under section 5 of this Act shall include particular statements of the several claims of persons so joining and shall be verified by the affidavits of such persons so joining, or separate statements of claim may be filed and verified as by this Act provided, and one attachment or writ of summons issued on behalf of all the persons so joining.

31. Where suits are brought in more than one county court respecting liens or claims, upon the same logs or timber, the proceedings after the issue of the first execution or attachment shall be had in the county court out of which such execution or attachment first issued, unless the judge shall otherwise order.

32. The forms necessary to be issued in any action or proceedings under this Act, the costs to be taxed to any party therein and the procedure regulating the practice in actions brought and other proceedings taken under the provisions of this Act shall, so far as the same are not inconsistent with this Act, be as nearly as may be according to the forms, tariff of costs and procedure in force in county courts.

(Forms omitted.)

### Regulation and Inspection of Metalliferous Mins.

Chapter 15.—1. This Act may be cited as "The Metalliferous Mines Regulation Act."

#### Application.

2. This Act shall apply to every quarry and to every mine of whatever description other than a mine to which "The Coal Mines Regulation Act" applies, whether the mineral or minerals are held under lease from the Crown or are the property of the owner of the soil.

3. If any question arises, otherwise than in legal proceedings, whether a mine is a mine to which this Act or "The Coal Mines Regulation Act" applies, such question shall be referred to the Commissioner, whose decision thereon shall be final.

#### Interpretation.

4. In this Act and in any special rules made under the provisions thereof, unless the context otherwise requires,—

(a) "Mine" means a mine to which this Act applies, and includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven for commencing or opening any such mine, or for searching for or proving minerals, and all the shafts, levels, planes, works, machinery, tramways, railways and sidings both below ground and above ground, in and adjacent to a mine, and any such shaft, level and inclined plane of and belonging to the mine; and includes a quarry;

(b) "Shaft" includes pit and slope and quarry;

(c) "Inclined plane" includes slope;

(d) "Plan" includes a map and section or sections, and a correct copy or tracing of any original plan as so defined;

(e) "Commissioner" means the Commissioner of Public Works and Mines;

(f) "Inspector" means an Inspector of Mines appointed under "The Mines Act";

(g) "Deputy Inspector" means a Deputy Inspector of Mines appointed under "The Mines Act";

(h) "Owner" in relation to any mine, means any person or body corporate who is the immediate proprietor, or lessee, or occupier of any mine, or of any part thereof, and does not include a person or body corporate who merely receives a royalty or rent from a mine, or is merely the proprietor of a mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine; but any contractor for the working of any mine or any part thereof as if he was an owner, but so as not to exempt the owner from any liability.

(i) "Agent," in relation to any mine, means any person having, on behalf of the owner, care or direction of any mine or any part thereof;

(j) "Boy" means any male person under the age of eighteen years;

(k) "Shift" means a body of men or boys, or both (other than men or boys engaged in attending to the ventilation of a mine) who go to work in a mine at a set period of the day.

#### Employment of Boys.

5. (1) No boy of or above the age of twelve years and under the age of sixteen years shall be employed in or about or allowed to be for the purpose of employment in or about any mine below or above ground for more than fifty-four hours in any one week, or for more than ten hours in any one day, except in case of accident or emergency.

(2) For the purpose of this section a "week" shall be deemed to begin at midnight on Saturday night and to end at midnight on the succeeding Saturday night.

(3) No boy under the age of twelve years shall be employed in or about or allowed to be for the purpose of employment in or about any mine below ground or above ground.

6. (1) No boy of or above the age of twelve years and under the age of sixteen years shall be permitted to work in or about any mine below or above ground, unless he furnishes a certificate from the principal teacher of the schools or school of the section, of having satisfactorily completed the prescribed course of study up to the end of grade seven.

(2) Every such teacher shall, without requiring payment of any fee, upon the application of any boy desiring employment, grant him such certificate, if he is entitled to the same, and any such teacher refusing to make such examination and grant such certificate shall be liable to a penalty not exceeding ten dollars.

7. Every person who contravenes or fails to comply with or permits any person to contravene or fail to comply with any provision of this chapter with respect to the employment of boys, shall be guilty of an offence against this chapter, and in case of any such contravention or non-compliance by any person whomsoever, the owner and agent shall each be guilty of an offence against this chapter, unless he proves he has taken all reasonable means to prevent such contravention or non-compliance by publishing, and to the best of his power enforcing, the next two preceding sections.

#### Payment of Wages.

8. No wages shall be paid to any person employed in or about any mine at or within any public house, beer shop or place for the sale of any spirits, beer, wine or other spirituous or fermented liquor, or other house of entertainment, or any office, garden or place belonging or contiguous thereto, or occupied therewith.

9. No owner, agent or manager of any mine shall deduct from the wages of any employee in such mine any sum in respect to school rates or other rates, without the consent in writing of such employee to such deduction.

10. Every person who contravenes or fails to comply, or permits any person to contravene or fail to comply, with the provisions of this Act respecting the payment of wages, shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent and manager shall be guilty of an offence against this Act unless he proves that he had taken all reasonable means to prevent such contravention or non-compliance by publishing and to the best of his power enforcing such provisions.

#### Notice of Accidents.

11. (1) Where, in or about any mine, whether above or below ground, either

(a) Loss of life or any personal injury to any person employed in or about the mine occurs by reason of any explosion of gas, powder, dynamite or other explosive or of any steam boiler, or

(b) Loss of life or any serious personal injury to any person employed in or about the mine occurs by reason of any accident whatever, the owner, agent or manager of the mine shall within eight hours next after the explosion or accident, notify the Commissioner by telegraph or telephone or other quickest mode of communication, of the explosion or accident and of the loss of life or personal injury occasioned thereby, and shall specify in such notice the character of the explosion or accident, and the number of persons killed and injured respectively, and as soon thereafter as possible shall make a return of facts relating to such accident or explosion in the form given in the schedule to this Act.

(2) Where any personal injury, of which notice is required to be sent under this section, results in the death of the person injured, notice in writing of the death shall be sent to the Commissioner within twenty-four hours after such death comes to the knowledge of the owner, agent or manager.

(3) Every owner, agent or manager who fails to act in compliance with this section shall be guilty of an offence against this Act.

#### Abandoned Mines.

12. (1) Where any mine has been abandoned, or the working thereof has been discontinued, the owner thereof or his agent or managers shall cause the top of the shaft and all entrances from the surface, and all pits and openings dangerous by reason of their depth, to be and to be kept securely fenced for the prevention of accidents.

(2) When any mine has been abandoned the owner thereof or his agent or manager shall, if required by the Commissioner, within three months after such abandonment send to the Commissioner an accurate plan of the workings of such mine up to the time of the abandonment on a scale of not less than one hundred feet to one inch.

(3) Every such owner, agent or manager who fails to comply with this section shall be guilty of an offence against this Act.

## Notice of Change of Ownership or of Working.

13. (1) In any case,

(a) Where any change occurs in the name of any mine or in the name of the owner or agent of any mine, or in the officers of any incorporate company which is the owner of a mine;

(b) Where any working is commenced for the purpose of opening a mine;

(c) Where a shaft of any mine is abandoned or the working thereof discontinued;

or

(d) Where the working of a mine is recommenced after an abandonment or discontinuance for a period exceeding two months;

the owner, agent or manager of such mine shall give notice thereof to the Commissioner within two months after such change, commencement, abandonment, discontinuance or recommencement.

(2) If such notice is not given, the owner, agent or manager shall be guilty of an offence against this Act.

(3) This section shall not apply to—

(a) Any working or mine in which not more than twelve men are ordinarily employed below ground, or

(b) Any working or mine exempted from compliance with this section by the Commissioner.

## Inspection.

14. (1) The inspector and every deputy inspector shall have power to do all or any of the following things, namely:—

(a) To make such examination and inquiry as is necessary to ascertain whether the provisions of this Act relating to matters above ground or below ground are complied with in the case of any mine;

(b) To enter, inspect and examine any mine and every part thereof, at all times by day and night, but so far as possible not to impede or obstruct the working of the mine;

(c) To examine into and make inquiry respecting the state, condition and ventilation of any mine, or any part thereof, and the sufficiency of any special rules for the time being in force in the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine, or any mine contiguous thereto;

(d) To exercise such other powers as are necessary for carrying this Act into effect.

(2) Every person who wilfully obstructs the inspector or a deputy inspector in the execution of his duty under this Act, and every owner, agent or manager of a mine who refuses or neglects to furnish to the inspector or deputy inspector the means necessary for making any entry, inspection, examination or inquiry under this Act in relation to such mine, shall be guilty of an offence against this Act.

15. (1) If in any respect (which is not provided against by any express provision of this Act, or by any special rule) the inspector finds any mine, or any part thereof, or any matter, thing or practice in or connected with any such mine, to be dangerous or defective, so as in his opinion to threaten or tend to the bodily injury of any person, or to the waste or misuse of any property of or leased from the Crown, the inspector may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in such notice the particulars in which he considers such mine, or any part thereof, or any matter, thing or practice, to be dangerous or defective, and require the same to be remedied; and unless the same is forthwith remedied the inspector shall report the same to the Commissioner.

(2) If the owner, agent or manager of the mine objects to remedy the matter complained of in the notice, he may within ten days after the receipt of such notice, send his objection in writing, stating the grounds thereof, to the Commissioner, and thereupon the matter shall be decided by arbitration by the Commissioner, together with one arbitrator appointed by the inspector and one appointed by such owner or agent; and the award of the Commissioner and one of the arbitrators shall be final.

(3) Five days' notice of the time and place at which the arbitrators will hear such matter shall be given to the parties interested.

(4) If the owner or agent fails,—

(a) When no such objection is sent, to comply with the requisition of the notice within ten days after the expiration of the time for objection, or

(b) When there has been an arbitration to comply with the award within the time fixed by the award,

he shall be guilty of an offence against this Act, and the notice and the award shall respectively be deemed to be written notice of the offence.

(5) The Commissioner, if satisfied that the owner or agent has taken active measures for complying with the notice or decision, but has not with reasonable dili-

gence been able to complete the works, may extend such time of five days to such time as he deems proper, and if the works are completed within such time no penalty shall be inflicted.

(6) No person shall be precluded by any agreement from doing such acts as are necessary to comply with the provisions of this section, or be liable under any contract to any penalty or forfeiture for doing such acts.

16. (1) The owner, agent or manager of every mine shall keep in the office at the mine an accurate plan of the workings of such mine, showing the workings up to three months or less previously.

(2) The owner, agent or manager of the mine shall produce to the inspector or deputy inspector at the mine such plan, and shall, if requested by the inspector or deputy inspector mark on such plan or a copy thereof the progress of the workings of the mine up to the time of such production, and shall allow the inspector or deputy inspector to examine the same, and shall furnish to the inspector or deputy inspector a correct copy of such plan when requested by him.

(3) The owner, agent or manager, on or before the first day of April of each year, shall furnish to the inspector a correct plan or tracing (not before furnished) of the workings up to the 1st day of January then last past.

(4) Every owner, agent or manager of any mine who

(a) Fails to keep such a plan as is prescribed by this section, or

(b) Refuses to produce the same to the inspector or deputy inspector and allow it to be examined by him, or

(c) Refuses on request to mark on such plan the state of the workings of the mine at the time of such request, or

(d) Conceals any part of such plan, or

(e) Produces an imperfect or inaccurate plan, shall, unless he shows that he was ignorant of the concealment, imperfection or inaccuracy, be guilty of an offence against this chapter.

(5) The inspector may also by notice in writing (whether a penalty for such offence has been imposed or not), require the owner, agent or manager to cause an accurate plan, such as is prescribed by this section, to be made within a reasonable time at the expense of the owner of the mine on a scale of not less than four hundred feet to one inch, or on the same scale as the plan then used at the mine.

(6) If the owner, agent or manager fails within twenty days after the requisition of the inspector, or within such further time as is shown to be necessary to make such plan, he shall be guilty of an offence against this chapter.

17. Where it appears to the Commissioner that a formal investigation of any accident in any mine, or of any matter connected with the working of any mine, is expedient, the Commissioner may direct the inspector to hold such investigation, and with respect to any such investigation the following provisions shall have effect:—

(1) The Commissioner may appoint any person or persons possessing legal or special knowledge to act with the inspector as assessor or assessors in holding the investigation.

(2) The inspector shall make such investigation in such manner and under such conditions as he thinks most effectual for the making of a full investigation.

(3) The inspector for the purposes of investigation shall have all the power of a commissioner appointed under the chapter of the Revised Statutes, "Of inquiries concerning public matters," and all the powers conferred upon the inspector by this Act and as part thereof, or in addition thereto, the following powers, namely:—

(a) Power to enter or inspect any mine, building or place, the entry or inspection of which appears to the inspector expedient;

(b) Power by summons, signed by the inspector to require the attendance of any person and to require of such person such answers or returns to inquiries as the inspector thinks fit;

(c) Power to require the production of any book, paper or document which the inspector thinks important upon such investigation;

(d) Power to administer an oath.

(4) Any person attending before the inspector in obedience to any such summons shall be allowed the fees paid to a witness attending a trial in the Supreme Court.

(5) Any person who without reasonable excuse either fails (after having had any fees to which he is entitled tendered to him), to comply with any summons requiring him to attend before the inspector upon any such investigation, or refuses to produce any document which he is required by the inspector to produce, or prevents or impedes the inspector when engaged upon such investigation, shall for each such offence be liable to a penalty not exceeding fifty dollars, or to imprisonment for a term not exceeding twenty days, and in addition thereto may be proceeded against in the Supreme Court as for a contempt of such court.

(6) The inspector shall make a report upon such investigation, which the Commissioner may cause to be made public at such time and in such manner as he thinks fit.

(7) Any expense incurred in and about any such investigation (including the remuneration of any person appointed to act as assessor) shall be paid out of the treasury of the province.

#### Returns.

18. On or before the tenth day of each of the months of January, April, July and October in each year, every owner, or his agent or manager, shall send to the Commissioner a correct return, specifying the quantity of every mineral wrought or gotten from the mine, the probable use or destination of the same, the amount of royalty, if any, which has accrued upon the mineral or minerals wrought or gotten during the last previous quarter, and a correct return specifying the number of days' labour, and the number of persons ordinarily employed in or about the mine, below ground and above ground, and the different classes of persons so employed, and a plan or description of all the shafts, quarries, slopes, levels, planes, works, machinery, tramways and railways sunk, driven, opened or constructed during the progress of the work, or during the next preceding quarter. Such return shall be in the form prescribed by the Commissioner, and shall be verified by the affidavit of the owner, agent or manager of the mine.

#### General Rules.

19. (1) The following general rules shall be observed, so far as is reasonably practicable, in every mine:—

Rule 1. An adequate amount of ventilation shall be constantly produced in every mine to dilute and render harmless noxious gases to such an extent that the working places of the shafts, levels, stables, winzes, sumps and workings of the mine, and the travelling roads to and from such working places, shall be in a fit state for working and passing therein.

Rule 2. The following provisions shall relate to the use of any explosive:—

(a) It shall not be stored in the mine, or within two hundred and fifty yards of the slope or shaft or quarry;

(b) It shall not be taken into any mine in which more than twelve men are employed in quantities exceeding the requirements of one day, and not in any case exceeding twenty-five pounds;

(c) In any such mine the explosives shall be under the special charge of one man, and the firing of the explosives shall also be under the control and supervision of some man specially appointed for that purpose.

(d) Detonators shall not be stored with explosives nor kept in any place within two hundred feet of such explosives.

Rule 3. (1) Where there is a shaft or an inclined plane or level in any mine, whether for the purpose of an entrance to such mine or of a communication from one part to another part of such mine, and persons are taken up or down or along such shaft, plane or level by means of any engine, windlass or gin driven or worked by steam or any mechanical power, or by an animal or by manual labour, a person shall not be allowed to have charge of such engine, windlass or gin, or of any part of the machinery, ropes, chain or tackle connected therewith, unless he is a male person of at least eighteen years of age.

(2) Where the engine, windlass or gin is worked by an animal, the person under whose direction the driver of the animal acts shall for the purposes of this section be deemed to be the person in charge of the engine, windlass or gin; but such driver shall not be under fourteen years of age. This clause shall not apply to operations known in the mines as counter or back balances.

Rule 4. Where a place is likely to contain a dangerous accumulation of water the working approaching such place shall not exceed eight feet in width or height, and there shall be constantly kept at a sufficient distance, not being less than five yards in advance, at least one bore-hole near the centre of the working and sufficient flank bore-holes on each side.

Rule 5. Every underground plane on which persons travel, which is self-acting or worked by an engine, windlass or gin, shall be provided (if exceeding thirty yards in length) with some proper means of communicating distinct and definite signals between the stopping places and the ends of the plane, and shall be provided in every case, at intervals of not more than twenty yards, with sufficient manholes, or places of refuge.

Rule 6. Every back balance or counter balance used for raising or lowering minerals or materials, if exceeding thirty yards in length, shall, unless exempted in writing by the inspector, be provided with some proper means of communicating distinct and definite signals between the lower end and between the entrance of every working place thereon for the time being in work and the upper end thereof.

Rule 7. (1) Every road on which persons travel underground where the produce of the mine in transit exceeds ten tons in any one hour over any part thereof, and where the load is drawn by a horse or other animal, where there is not standing room of at least two feet, shall be provided, at intervals of not more than twenty-five yards, with sufficient man-holes or with places of refuge, and every such place of refuge shall be of sufficient length and of at least three feet in width between the wagons running on the tram-road and the side of such road.

(2) Where the load is drawn by machinery or other mechanical appliance, and there is not standing room of at least two feet, there shall be provided at intervals of not more than fifteen yards sufficient man-holes or places of refuge, and every such place of refuge shall be of sufficient length and of at least three feet in width, between the wagons running on the tram-road and the side of such road.

(3) Whenever in the opinion of the inspector the precautions required by this rule with respect to roads over which minerals are drawn by machinery or other mechanical appliance are not sufficient for the safety of the men travelling thereon, he may require the owner, agent or manager of the mine to provide a separate travelling road.

Rule 8. Every man-hole and place of refuge shall be constantly kept clear, and no person shall place anything in a man-hole or place of refuge so as to prevent access thereto.

Rule 9. The top of every shaft which for the time being is out of use or used only as an air shaft, shall be kept securely fenced, and in every such case the owner, agent or manager shall notify the deputy inspector, who shall report to the Commissioner as to the sufficiency of such fencing, and the Commissioner may require such further precautions for safety to be taken as may be deemed necessary.

Rule 10. The top and all entrances between the top and bottom of every working shaft, ventilating or pumping shaft shall be properly fenced; but this shall not be taken to forbid the temporary removal of the fence for the purpose of repairs or other operations if proper precautions are used. The top and approaches to any quarry shall be kept securely fenced.

Rule 11. Where the natural strata are not safe, every working or pumping shaft shall be securely cased, lined, or otherwise made secure.

Rule 12. The roof and sides of every travelling road and working place shall be made secure, and a person shall not, unless appointed for the purpose of exploring or repairing, travel or work in any such travelling road or working place which is not so made secure.

Rule 13. Every working shaft used for the purpose of drawing minerals, or for the lowering or raising of persons, shall, if exceeding fifty yards in depth, and not exempted in writing by the inspector, be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft, and from every entrance for the time being in use between the surface and the bottom of the shaft and to every entrance for the time being in use between the surface and the bottom of the shaft.

Rule 14. A sufficient cover overhead shall be used for every cage or tub employed in lowering or raising persons in any work shaft, except where the cage or tub is worked by a windlass, or where any persons are employed at work in the shaft, or where a written exemption is given by the inspector.

Rule 15. A single-linked chain shall not be used for lowering or raising persons in any working shaft or place except for the short coupling chain attached to the cage or load.

Rule 16. There shall be on the drum of every machine used for lowering or raising persons such flanges or horns, and also if the drum is conical, such other appliances as are sufficient, to prevent the rope from slipping.

Rule 17. There shall be attached to every machine worked by steam, water or mechanical power, and used for lowering or raising persons, an adequate brake, and also a proper indicator (in addition to any mark on the rope) showing to the person who works the machine the position of the cage or load in the shaft.

Rule 18. Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be and be kept securely fenced.

Rule 19. Every steam boiler shall be provided with a proper steam gauge and water gauge, to show respectively the pressure of steam and the height of water in the boiler, and with a proper safety valve.

Rule 20. A ladder permanently used for the ascent or descent of persons in the mine shall not be fixed in a vertical or over-hanging position, and shall be inclined at the most convenient angle which the space in which the ladder is fixed allows; and every such ladder shall have substantial platforms at intervals of not more than twenty feet.

Rule 21. If more than twelve persons are ordinarily employed in the mine below ground, sufficient accommodation shall be provided above ground near the principal



entrance of the mine, and not in the engine-room or boiler-room, for enabling the persons employed in the mine to conveniently dry and change their dresses.

Rule 22. Where one portion of a shaft is used for the ascent and descent of persons by ladders or otherwise, and another portion is used for raising the materials gotten in the mine, the first mentioned portion shall be either cased or otherwise securely fenced off from the last mentioned portion, or no person shall be permitted to travel in the shaft when the shaft is working.

Rule 23. No person shall wilfully damage, or without proper authority remove or render useless, any fence, fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam-gauge, water-gauge, safety valve or other appliance or thing provided for any mine in compliance with this Act.

Rule 24. Every person shall observe such directions with respect to working as are given to him with a view to comply with this Act, or any special rules in force under this Act.

Rule 25. A competent person or persons who shall be appointed for the purpose shall, once at least in every twenty-four hours, examine the state of the external parts of the machinery and the state of the head-gear, working places, levels, planes, ropes, chains and other works of the mine which are in actual use, and once at least in every week shall examine the state of the shafts by which persons ascend or descend, and the guides or conductors therein.

Rule 26. The persons employed in a mine may from time to time appoint two of their number to inspect the mine, at their own cost, and the persons so appointed shall be allowed once at least in every month, accompanied, if the owner, agent or manager of the mine thinks fit, by himself or one or more of the officers of the mine, to go to every part of the mine, and to inspect the shafts, levels, planes, working-places, return air-ways, ventilating apparatus, old workings and machinery, and shall be afforded by the owner, agent, or manager and all persons in the mine, every facility for the purpose of such inspection, and shall make a true report of the result of such inspection, and such report shall be recorded in a book to be kept at the mine for the purpose, and shall be signed by the persons who made the same.

Rule 27. The majority of the workmen at any mine may appoint a committee to examine the seat of any accident resulting in the death or injury of any person.

(2) Every person who contravenes or does not comply with any of the general rules in this section shall be guilty of an offence against this Act; and in the event of any contravention of or non-compliance with any of such general rules in the case of any mine by any person whomsoever being proved, the owner, agent or manager shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means to prevent such contravention or non-compliance, by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine.

#### Special Rules.

20. (1) The owner, agent or manager of any mine may establish special rules for such mine in the manner provided for the establishment of special rules for a coal mine in "The Coal Mines Regulation Act," and all the provisions respecting special rules in such Act shall apply to any rules so established.

(2) If any person who is bound to observe any special rules so established, acts in contravention of or fails to comply with any of them, he shall be guilty of an offence against this Act.

(3) In any such case the owner, agent or manager of such mine shall also be guilty of an offence against this chapter, unless he proves that he had taken all reasonable means to prevent such contravention or non-compliance by publishing and to the best of his power enforcing such rules as regulations for the working of the mine.

21. (1) All iron ore or other minerals extracted from mines leased by the Crown, on which royalty is payable shall be weighed at the mine.

(2) A competent person shall be appointed weigher by the owner, agent or manager, who shall enter in a book specially kept for the purpose the weight of every weighing, and shall make a true report to the office at the mine of the weighings so made by him.

(3) Every person who fails to comply with the provisions of this section shall be guilty of an offence against this Act.

#### Notices.

22. All notices required by this Act shall be in writing or print, or partly in writing and partly in print; and all notices and documents required by this Act to be served or sent by or to the Commissioner or inspector may be either delivered personally or served and sent by post by a prepaid registered letter; and if served or sent by post, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course



of post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post.

Penalties.

23. Every person employed in or about a mine, other than an owner, agent or manager, who is guilty of any act or omission which in the case of an owner, agent or manager would be an offence against this Act, shall be guilty of an offence against this Act.

24. (1) Every owner, agent or manager who is guilty of an offence against this Act shall be liable to a penalty not exceeding eighty dollars.

25. Every person other than an owner, agent or manager who is guilty of an offence against this Act shall be liable to a penalty of eight dollars.

26. No prosecution shall be instituted against the owner, agent or manager of any mine for an offence against this Act except,—

(a) By the inspector, or

(b) With the consent in writing of the Commissioner, or

(c) By some person appointed by the Commissioner, or

(d) By some person employed in or about the mine in respect to which the offence was committed, appointed in writing to institute such prosecution by not less than twelve persons so employed.

27. If it appears that a boy was employed on the representation of his parent or guardian that he was of the age at which his employment would not be in contravention of this Act, and under the belief in good faith that he was of such age, the owner, agent or manager of the mine or the employer of such boy shall, notwithstanding the boy was not of such age, be exempt from any penalty in respect to such employment, and such parent or guardian shall for the misrepresentation be guilty of an offence against this Act.

28. In any prosecution or other proceeding against an owner, agent or manager of any mine for an offence against this Act, such owner, agent or manager shall be discharged if he proves that he took all reasonable means to prevent the commission of such offence.

29. Any complaint or suit made or brought in pursuance of this Act shall be made or brought within six months from the time when the matter of such complaint or suit came to the knowledge of the prosecutor.

30. Where a penalty is imposed under this Act for neglecting to send a notice of any explosion or accident or for any offence against this Act which has occasioned loss of life or personal injury, the Commissioner may (if he thinks fit) direct such penalty to be paid to or distributed among the persons injured and the relatives of any persons whose death has been occasioned by such explosion, accident or offence, or among some of them. Provided that such persons did not in his opinion occasion or contribute to occasion the explosion or accident, and did not commit and were not parties to the commission of the offence.

31. Except as in this Act otherwise provided all penalties imposed in pursuance of this Act shall be paid on receipt of the same into the provincial treasury.

SCHEDULE.

(Section 11.)

Form of Notice of Explosion or Accident to be Sent to the Commissioner of Mines.

Name of Mine.....

Date.....

To the Hon. the Commissioner of Public Works and Mines, Halifax, N.S.:—

Sir,—In pursuance of "The Metalliferous Mines Regulation Act," I beg to give you notice that an explosion (or accident) has occurred at this mine, of which the following are the particulars:—

Place where the accident occurred.....

Date of the accident.....

If from explosion, whether of gas, explosive, or steam boiler.....

Number, ages and names of persons killed.....

Number and names of persons injured seriously.....

Number and names of persons injured slightly.....

Number and relation of persons dependent on persons killed.....

I am, sir,

Your obedient servant,

.....  
(Signature)

**Sunday Hours for Street Railway Employees.**

Chapter 52.—3. It shall not be lawful for any motorman or conductor on a street railway to be employed as such motorman or conductor for more than six hours on Sundays, which said hours shall be consecutive, nor for more than ten hours on any week day, the said ten hours to be completed within thirteen consecutive hours from the time when a motorman or conductor first begins his work for the day; provided, however, that this section shall not apply to motormen or conductors who on any one day, notwithstanding that they have completed the said ten hours as aforesaid, are required for the purpose of operating a sweeper or snow-plough on any lines or tracks on any street railway, or to enable them to complete a run.

4. Every street railway company which fails or neglects to comply with any of the provisions of this Act shall be liable to a penalty of not more than twenty-five dollars for each day during which such failure or neglect continues; which penalty shall be enforceable under the provisions of the "Nova Scotia Summary Convictions Act."

5. Each and every of the foregoing provisions of this Act shall come into force and take effect when deemed necessary or feasible by the Board of Public Utilities, which Board shall direct when and in what manner the same shall be carried out.

**STATUTES OF 1914.****Inspection of Steam Boilers.**

Chapter 2. [Not yet in force.]-1. This Act may be cited as "The Steam Boiler Act."

2. In this Act, and the regulations made hereunder, unless the context otherwise requires,—

(a) "inspector" means an inspector appointed by the Governor in Council under and for the purposes mentioned in this Act;

(b) "commissioner" means the Commissioner of Public Works and Mines for the Province;

(c) "steam boiler" shall mean and include a boiler used for generating steam for heating or power purposes, and every part thereof or thing connected therewith, and apparatus and things attached to or used in connection with any such boiler, but not—

(i) a boiler in a private residence, apartment house, office building, church, hotel or public building used exclusively for heating purposes, and provided with a device approved by the Commissioner, limiting the pressure carried to fifteen pounds to the square inch, nor

(ii) a portable boiler, rated at 25 horse-power or under, or a boiler used exclusively for horticultural or agricultural purposes, nor

(iii) railway locomotives;

(d) "inspection certificate" means the annual certificate of the inspection of any boiler issued by an inspector under this Act;

(e) "owner" means and includes any person, firm or corporation, the owner or lessee of a boiler and the manager or other head officer in charge of the business of such firm or corporation.

3. Upon the recommendation of the Commissioner, the Governor in Council may make regulations—

(a) respecting the construction of steam boilers;

(b) prescribing specifications for the construction of steam boilers, including the material to be used, the method and order for construction, the tests to be applied during and after construction;

(c) for the inspection of every steam boiler during its construction and before it is removed from the place of construction; and

(d) generally respecting such other matters as may be deemed proper to secure an uniform standard of strength, safety and efficiency in the construction of steam boilers.

(e) Nothing in this section or in the provisions of this Act shall be construed to make it applicable to any marine boiler, providing the same is being constructed according to Dominion Government specifications and subject to its inspection.

4. The regulations shall be published in the "Royal Gazette;" shall come into force and take effect at a date to be named by proclamation.

5. (1) The Governor in Council may appoint Inspectors of steam boilers for the purposes of this Act and for the enforcement of the regulations, and may designate one of them to be Chief Boiler Inspector.

(2) The Commissioner may employ any boiler insurance company, or any inspection company engaged in the inspection of steam boilers, to make any inspection of steam boilers during their construction, required by the regulations, and the company making such inspection shall report upon the same within fourteen days thereafter to the Chief Boiler Inspector.

(3) The Commissioner may accept, in lieu of the "Inspection Certificate" of any boiler inspector appointed under this Act, a certificate of inspection of any steam boiler by any boiler insurance company licensed to do business in the province of Nova Scotia.

(4) Upon acceptance by the Commissioner of the Inspection Certificate of any boiler insurance company licensed to do business in the province of Nova Scotia, the Commissioner may cause to be issued to the owner or manufacturer of such boiler an "Inspection Certificate," and the owner or manufacturer shall pay the Commissioner a fee not exceeding one dollar for the issue of such certificate.

6. No person shall be appointed or shall hold office as inspector who is directly or indirectly interested in the manufacture or sale of steam boilers or steam machinery.

7. Every inspector appointed under the provisions of this Act, before entering upon the performance of his duties, shall take and subscribe an oath that he will faithfully and impartially perform the duties of his office.

8. For the purpose of seeing that the provisions of this Act and of the regulations are complied with, any inspector may at any reasonable hour enter upon any lands or into any building where any steam boiler is under construction, operation, alteration or repair.

9. Any person interfering with or obstructing any inspector in the performance of his duties under this Act shall incur a penalty not exceeding \$50.

10. (1) An inspector may by notice in writing require the attendance before him, at any time and place named in the notice, of any person and may examine such person either alone or in the presence of any other persons as he may think fit as to any matter connected with the construction, alteration or repair of a steam boiler or its removal from any place in which it has been constructed, altered or repaired.

(2) For the purpose of subsection 1 the inspector may administer an oath to any person to be examined by him.

(3) Every person who wilfully neglects or refuses to attend before the inspector after receiving notice so to do, or refuses to be sworn or to give evidence before the inspector, or to answer any question put to him by the inspector touching the matters mentioned in subsection 1, shall incur a penalty of \$25.

11. (1) Every steam boiler in the province shall be inspected at least once in each calendar year by an inspector appointed under this Act.

(2) If the owner of any boiler proves to the satisfaction of the inspector that his boiler has not been operated since the date of the previous inspection and is in good condition as when inspected, the inspector may issue a new inspection certificate without inspecting the boiler, and may remit the fee for inspection hereinafter provided for.

(3) Upon the completion of his inspection the inspector shall issue to the owner or manufacturer of the boiler an inspection certificate; and the owner or manufacturer shall pay the inspector a fee of \$5 for such inspection and the issue of such certificate.

(4) The inspector shall upon the completion of his inspection stamp upon every boiler a number.

(5) Any owner or manufacturer neglecting or refusing to pay the inspector such fee shall incur a penalty not exceeding \$20.

(6) Such inspection certificate shall be *prima facie* evidence of the due inspection of the boiler and of its fitness to be operated, and the possession of such certificate shall authorize the operation of such boiler from the date of such certificate until its inspection in the next following year, provided that no defect is in the meantime discovered therein.

12. Any owner who operates, or causes to be operated, any boiler without being in possession of an inspector's certificate shall incur a penalty not exceeding \$200; provided, however, that any owner of a boiler which has not been inspected within a year who has notified an inspector or the Commissioner, by properly addressed and prepaid registered letter, of his intention to operate such boiler, may operate the same until an inspection is made, without being guilty of an offence under this Act.

13. In addition to the annual inspection, it shall be the duty of an inspector to examine at any time, when in his opinion such examination shall become necessary, any steam boiler which may be reported to him to be unsafe from any cause, and to notify the owner or person using such boiler, of any defects or repairs necessary to be made to render the same safe.

14. Any boiler declared to be unsafe by an inspector shall not be used until such repairs as are ordered by the inspector have been made and the certificate required hereunder duly issued; and any person operating a boiler declared to be unsafe by an inspector before the repairs ordered by the inspector are completed and the certificate issued, shall be liable to a penalty of \$50.

15. Every inspector shall keep a true record of all steam boilers inspected by him, and all repairs ordered; of all steam boilers condemned by him as unsafe, and of all accidents to boilers by explosions or otherwise which come to his knowledge.

16. (1) On the occurrence of an explosion of any steam boiler, notice thereof shall be sent at once by telegraph to the Commissioner by the owner or by some person acting on his behalf, stating the precise locality as well as the number of persons killed or injured; and after the explosion of any such boiler no part or parts of the same shall without the written permission of an inspector be removed or their positions altered by any person except to rescue persons injured or to remove the bodies of persons killed.

(2) Any person neglecting or violating any of the provisions of this section shall be liable to a fine of not less than \$50 and not more than \$100 or to imprisonment for a term not exceeding three months.

(3) On receipt of any report mentioned in subsection (1) of this section, the Commissioner shall cause a full investigation to be made as to the cause and circumstances of such explosion.

17. The Chief Inspector shall render annually on or before the last day of February in each year a concise report to the Commissioner of all inspections made by him during the preceding year, and of all accidents and casualties that may have happened connected with the operation of steam boilers within the province.

18. Any person who sells or exchanges a boiler shall within thirty days after such sale or exchange notify the Commissioner in writing, by duly prepaid registered mail, of such sale or exchange, stating the name and address of the person to whom such boiler has been sold, or with whom the same has been exchanged, and the number stamped on such boiler by the inspector.

19. The Commissioner may, upon due cause being shown, cancel any certificate issued under the provisions of this Act.

20. All fees payable and all penalties recovered under this Act, or the regulations, shall be paid into the Provincial Treasury.

21. The specifications provided for in this Act for the construction of steam boilers shall not apply to—

(a) a new boiler in the possession of a manufacturer or of a dealer in steam boilers on the 1st day of July, 1914, nor a boiler under construction on that date; nor

(b) a second-hand boiler in the possession of the manufacturer or of a dealer in steam boilers on that date, unless the same is rebuilt or extensively altered after that date.

22. This Act shall come into force at a date to be fixed by proclamation by the Governor in Council.<sup>1</sup>

### Registration of Chauffeurs.

Chapter 43.—29. (1) Every person of the age of eighteen years or upwards hereafter desiring to be registered as a chauffeur may file in the office of the Secretary, on a form to be furnished by the Secretary for the purpose, a statement of his name, address, and age, and the trade name and motive power of the motor vehicles he is able to operate, and such other information as the Secretary may from time to time require. Such statement shall be verified by a declaration under the Canada Evidence Act if the Secretary so requires.

(2) The Secretary shall on the filing as aforesaid of such statement register such chauffeur in a book or index to be kept for that purpose, and assign him a number.

(3) The Secretary shall on such registration and on payment of the prescribed fee issue to such chauffeur a metal badge which shall be oval in form, and the greater diameter of which shall not be more than three inches, and such badge shall have stamped thereon the words, "Registered Chauffeur, Nova Scotia Motor Vehicle Law," and the number assigned to him.

(4) Every person that is registered as a chauffeur in accordance with Chapter 44 of the Acts of 1907 shall be deemed to be registered as a chauffeur under this Act and shall be deemed to have had assigned to him under this Act the number and to have had issued to him under this Act the badge which have been respectively assigned and issued to him under said Chapter 44.

30. No person shall as a chauffeur operate on any public highway any motor vehicle unless such person is a registered chauffeur.

31. No registered chauffeur shall operate on any public highway any motor vehicle unless such badge is conspicuously displayed on his clothing.

32. No registered chauffeur shall wilfully permit any other person to wear the badge of such registered chauffeur.

<sup>1</sup> The date for this Act to come into force has not yet been fixed.

33. No person shall while operating a motor vehicle display or use the badge issued to any other person as a registered chauffeur or any badge liable to be confounded with the badge of a registered chauffeur.

36. (3) The Secretary may at any time for misconduct or for violation of any of the provisions of this Act by a registered chauffeur cancel the registration of such registered chauffeur, and may at any time cancel the registration of any chauffeur registered by mistake.

## STATUTES OF 1915.

### Workmen's Compensation.

Chapter 1.—1. This Act may be cited as the Workmen's Compensation Act, 1915.

2. In this Act—

(a) "accident fund" shall mean the fund provided for the payment of compensation under this Act;

(b) "association" shall mean any association or body of employers whose constitution shall have been approved by the Board as entitling it to represent any of the classes provided for in this Act or any subdivision or group of employers in such class;

(c) "board" shall mean Workmen's Compensation Board;

(d) "construction" shall include reconstruction, repair, alteration and demolition;

(e) "dependents" shall mean such of the members of the family of a workman as were wholly or partly dependent upon his earnings at the time of his death, or who but for the incapacity due to the accident would have been so dependent;

(f) "employer" includes every person having in his service, under a contract of hiring or apprenticeship, written or oral, expressed or implied, any person engaged in any work in or about an industry within the scope of this Act, and in respect of any such industry includes Municipal Corporations;

(g) "employment" means and refers to the whole or any part of any establishment, undertaking, trade or business within the scope of this Act, and in the case of any industry not as a whole within the scope of this Act includes any department or part of such industry as would if carried on separately be within the scope of this Act;

(h) "industrial disease" shall mean any of the diseases mentioned in the Schedule and any other disease which by the regulations is declared to be an industrial disease;

(i) "industry" shall include establishment, undertaking, trade and business;

(j) "invalid" shall mean physically or mentally incapable of earning;

(k) "member of the family" shall mean and include wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, and half-sister, and a person who stood *in loco parentis* to the workman or to whom the workman stood *in loco parentis* whether related to him by consanguinity or not so related, and where the workman is the parent or grandparent of an illegitimate child, shall include such child, and where the workman is an illegitimate child, shall include his parents and grandparents;

(l) "outworker" shall mean a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the articles or materials;

(m) "regulations" shall mean regulations made by the Board under the authority of this Act;

(n) "workman" shall include a person who has entered into or works under a contract of service or apprenticeship, written or oral, expressed or implied, whether by way of manual labour or otherwise.

## PART I.

### Scope of This Part.

3. This Part shall apply to employers and workmen in or about the industries of lumbering, mining, quarrying, fishing, manufacturing, building, construction, engineering, transportation, operation of railway, telegraph, telephone, electric power lines, water-works, sewers and other public utilities, navigation, operation of boats, ships, tugs and dredges, stevedoring, operation of grain elevators and warehouses; teaming, scavenging and street cleaning; painting, decorating and renovating; dyeing and clean-

ing; the operation of laundries, or any occupation incidental thereto or immediately connected therewith, provided that, subject to sections 5 and 6, this Part shall not apply to the following—

(a) Persons engaged in office or other clerical work, and not exposed to the hazards incident to the nature of the work carried on in the industry;

(b) Persons whose employment is of a casual nature, and who are employed otherwise than for the purposes of the employer's trade or business;

(c) Outworkers;

(d) Persons employed by a City, Town or Municipal Corporation as members of a police force, or of the fire department;

(e) Members of the family of the employer.

4. (1) If the Board, after taking steps to ascertain the views of the employer and workmen, certifies that any scheme of compensation, benefit, or insurance for the workmen of an employer in any employment, whether or not such scheme includes other employers and their workmen, is on the whole not less favourable to the general body of workmen and their dependents than the provisions of this Part, the employer may, until the certificate is revoked, contract with any of those workmen that the provisions of the scheme shall be substituted for the provisions of this Part, and thereupon the employer shall be liable only in accordance with the scheme, but, save as aforesaid, this Part shall apply, notwithstanding any contract to the contrary made after the commencement of this Act.

(2) The Board may give a certificate to expire at the end of a limited period of not less than five years, and may from time to time renew, with or without modification, such a certificate to expire at the end of the period for which it is renewed.

(3) If complaint is made to the Board by or on behalf of the workmen of any employer that the provisions of any scheme are no longer on the whole so favourable to the general body of workmen of such employer and their dependents as the provisions of this Part, or that the provisions of such scheme are being violated or that the scheme is not being fairly administered, or that other satisfactory reasons exist for revoking the certificate, the Board shall examine into the complaint, and, if satisfied that good cause exists for such complaint shall, unless the cause of the complaint is removed, revoke the certificate.

(4) Whenever a scheme has been certified as aforesaid, it shall be the duty of the employer to answer all such inquiries and to furnish all such accounts in regard to the scheme as may be made or required by the Board.

(5) This section shall apply only to the employers and workmen in the industries carried on within the Island of Cape Breton by—

(a) The Dominion Steel Corporation (including any of the companies composing such corporation); and

(b) The Nova Scotia Steel and Coal Company, Limited.

(6) No certificate shall be given under the provisions of this section, and no application therefor shall be considered by the Board, without the assent of a majority of the workmen affected thereby, expressed on a plebiscite to be taken by a secret ballot under regulations to be made in that behalf by the Governor in Council.

5. (1) Any industry or workman not within the scope of this Part by virtue of section 3 may, on the application of the employer, be admitted by the Board as being within the scope of this Part on such terms and conditions and for such period and from time to time as the Board may prescribe, and from and after such admission and during the period of such admission, such industry or workman shall be deemed to be within the scope of this Part.

(2) Any employer in any industry within the scope of this Part may be admitted on such terms and conditions as for such period and from time to time as the Board may prescribe as being entitled, for himself or his dependents as the case may be, to the same compensation as if such employer were a workman within the scope of this Part.

(3) Such admission may be made in such manner and form as the Board may deem adequate and proper.

6. The Board may by regulation exclude from the scope of this Part any industry or industries in which not more than a stated number (fixed by such regulation) of workmen are usually employed. The Board may from time to time revoke, alter or modify any such regulation, provided that any industry so excluded may be re-admitted by the Board as being within the scope of this Part as provided by section 5.

#### Compensation.

7. (1) Where, in any industry within the scope of this Part, personal injury by accident arising out of and in the course of employment is caused to a workman, compensation as hereinafter provided shall be paid to such workman, or his dependents, as the case may be, except where the injury—



(a) does not disable the workman for the period of at least seven days from earning full wages at the work at which he was employed; or

(b) is attributable solely to the serious and wilful misconduct of the workman, unless the injury results in death or serious and permanent disablement.

(2) Where the accident arose out of the employment, unless the contrary is shown, it shall be presumed that it occurred in the course of the employment, and where the accident occurred in the course of the employment, unless the contrary is shown, it shall be presumed that it arose out of the employment.

(3) Where compensation for disability is payable it shall be computed and be payable from the date of the disability.

8. Where it appears that by the laws of any other province, country or jurisdiction, a workman or his dependents, if resident in Nova Scotia, would be entitled in respect of death or injury in such province, country or jurisdiction to compensation corresponding or equal to that provided in this Act, the Board may order that payments of compensation under this Act may be made to persons resident in such province, country or jurisdiction in respect of any workman killed or injured in Nova Scotia; but, save as in this section provided, nothing in this Act shall entitle any person not resident in Nova Scotia to compensation payments; provided that the Board may upon application grant leave from time to time to any workman or dependent resident in Nova Scotia at the time of the accident to reside out of Nova Scotia without thereby forfeiting the right to compensation payments under this Act.

9. (1) Where an accident happens to a workman in the course of his employment in such circumstances as entitle him or his dependents to an action against some person other than his employer the workman or his dependents if entitled to compensation under this Part may claim such compensation or may bring such action.

(2) If such workman or his dependents bring such action and less is recovered and collected than the amount of the compensation to which such workman or dependents would be entitled under this Act, such workman or dependents shall be entitled to compensation under this Part to the extent of the amount or amounts of such difference.

(3) If such workmen or dependents, or any of them have claimed compensation under this Part, the Board shall be subrogated to the position of such workman or dependent as against such other person for the whole or any outstanding part of the claim of such workman or dependent against such other person.

10. Nothing in section 9 shall give any right to an employer or to a workman within the scope of this Part to bring an action against any employer within the scope of this Part; but in any case where it appears to the satisfaction of the Board that a workman of an employer in any class was injured or killed owing to the negligence of an employer or the workman of an employer in another class, the Board may direct that the compensation awarded in any such case shall be charged against the class to which such last-mentioned employer belongs.

11. The provisions of this Part shall be in lieu of all rights and rights of action, statutory or otherwise, to which a workman or his dependents are or may be entitled against the employer of such workman for or by reason of any accident which happens to him while in the employment of such employer, and no action in respect to such accident shall lie.

12. It shall not be competent for a workman to agree with his employer to waive or to forego any of the benefits to which he or his dependents are or may become entitled under this Part, and every agreement to that end shall be absolutely void.

13. It shall not be lawful for an employer, either directly or indirectly, to deduct from the wages of any of his workmen any part of any sum which the employer is or may become liable to pay into the accident fund or otherwise under this Part, or to require or to permit any of his workmen to contribute in any manner towards indemnifying the employer against any liability which he has incurred or may incur under this Part.

14. Unless with the approval of the Board, no sum payable as compensation or by way of commutation of any periodical payment in respect of it shall be capable of being assigned, charged or attached, nor shall it pass by operation of law except to a personal representative, nor shall any claim be set off against it.

15. No compensation shall be payable under this Part in respect of any injury unless application for such compensation is made within one year after the occurrence of the injury.

#### The Workmen's Compensation Board.

16. There is hereby constituted a commission for the administration of this Part to be called "The Workmen's Compensation Board," which shall consist of three members to be appointed by the Governor in Council, and shall be a body corporate.

17. (1) One of the commissioners shall be appointed by the Governor in Council to be the chairman of the Board, and he shall hold that office while he remains a member of the Board, and another of the commissioners shall be appointed by the Governor in Council vice-chairman of the Board.



(2) In the absence of the chairman, or in case of his inability to act, or if there is a vacancy in the office, the vice-chairman may act as and shall have all the powers of the chairman.

18. (1) In the case of the death, illness, or absence from Nova Scotia of a Commissioner or of his inability to act from any cause, the Governor in Council may appoint some person to act *pro tempore* in his stead, and the person so appointed shall have all the powers and perform all the duties of a commissioner.

(2) Subsection 1 shall apply in the case of the chairman of the Board as well as the case of any other member of it.

19. Where the vice-chairman appears to have acted for or instead of the chairman, it shall be conclusively presumed that he so acted for one of the reasons mentioned in the next preceding subsection.

20. Each commissioner shall, subject to section 21, hold office during good behaviour, but may be removed at any time for cause.

21. Unless otherwise directed by the Governor in Council, a commissioner shall cease to hold office when he attains the age of 75 years.

22. The salary of the chairman, of the vice-chairman and of the other commissioner shall be determined by the Governor in Council, and such salaries shall be payable out of the Provincial revenue.

23. The presence of two commissioners shall be necessary to constitute a quorum of the Board.

24. A vacancy in the Board shall not, if there remains two members of it impair, the authority of such two members to act.

25. The Board shall have the like powers as the Supreme Court for compelling the attendance of witnesses and of examining them under oath, and compelling the production of books, papers, documents and things.

26. The offices of the Board shall be situated in the City of Halifax, and its sittings shall be held there, except where it is expedient to hold sittings elsewhere, and in that case sittings may be held in any part of Nova Scotia.

27. The commissioners shall sit at such times and conduct their proceedings in such manner as they may deem most convenient for the proper discharge and speedy dispatch of business.

28. (1) The Board shall appoint a secretary and a chief medical officer, and may appoint such auditors, actuaries, accountants, inspectors, officers, clerks and servants as the Board may deem necessary for carrying out the provisions of this Part, and may prescribe their duties, and, subject to the approval of the Governor in Council, may fix their salaries and pay the same out of the accident fund.

(2) Every person so appointed shall hold office during the pleasure of the Board.

29. (1) The Board may act upon the report of any of its officers, and any inquiry which it shall be deemed necessary to make may be made by any one of the commissioners or by an officer of the Board or some other person appointed to make the inquiry, and the Board may act upon his report as to the result of the inquiry.

(2) The person appointed to make the inquiry shall, for the purposes of the inquiry have all the powers conferred upon the Board by section 25.

30. (1) The Board shall have jurisdiction to inquire into, hear and determine all matters and questions of fact and law necessary to be determined in connection with compensation payments and the administration thereof, and the collection and management of the funds therefor.

(2) The Board may in its discretion invest any funds arising under any provisions of this Part, and under its control, in any securities which are under the "Trustee Act" a proper investment for trust funds.

31. (1) Except as stated in sub-sections (2) and (5) of this section, the decisions and findings of the Board upon all questions of law and fact shall be final and conclusive, and in particular, but not so as to restrict the generality of the powers of the Board hereunder, the following shall be deemed to be questions of fact—

(a) The question whether an injury has arisen out of or in the course of an employment within the scope of this Act;

(b) The existence and degree of disability by reason of any injury;

(c) The permanence of disability by reason of any injury;

(d) The degree of diminution of earning capacity by reason of any injury;

(e) The amount of average earnings;

(f) The existence of the relationship of husband, wife, parent, child, brother or sister, as defined by this Act;

(g) The existence of dependency;

(h) The character for the purpose of this Act, of any employment, establishment or department and the class to which such employment, establishment or department should be assigned;

(i) Whether or not any employee in any industry within the scope of this Part is within the scope of this Part and entitled to compensation thereunder.

(2) An appeal shall lie to the Supreme Court *in banco* from any final decision of the Board upon any question as to its jurisdiction or upon any question of law, but such appeal can be taken only by permission of a judge of the said court, given upon a petition presented to him within fifteen days after the rendering of the decision, and upon such terms as said judge may determine. Notice of such petition shall be given to the Board, at least two clear days before the presentation of such petition.

(3) Where an appeal has been granted, the appeal shall be brought by notice served on the chairman or vice-chairman of the Board within ten days after the permission to appeal has been granted. The notice shall contain the names of the parties and the date of the order appealed from, and such other particulars as the judge granting the appeal may require.

(4) On the hearing of such appeal any association representing a class interested in the result of the case shall be entitled to appear and be heard.

(5) The Board may of its own motion state a case in writing for the opinion of the Supreme Court *in banco* upon any question which in the opinion of the Board is a question of law.

(6) The Supreme Court shall hear and determine the question or questions of law arising thereon and remit the matter to the Board, with the opinion of the Court thereon.

(7) No costs shall be awarded in any appeal or case stated under this section.

32. The accounts of the Board shall be audited by the provincial auditor, or by an auditor appointed by the Governor-in-Council for that purpose, and the salary or remuneration of the last mentioned auditor shall be paid by the Board.

33. The Board shall on or before the 1st day of March in each year make a report to the provincial secretary of its transactions during the next preceding calendar year, and such report shall contain such particulars as the Governor-in-Council may prescribe.

34. (1) All expenses incurred in the administration of this Part shall be paid out of the accident fund.

(2) To assist in defraying the expenses incurred in the administration of this Part, there shall be paid to the accident fund out of the provincial treasury such annual sum, not exceeding \$25,000, as the Governor-in-Council may direct.

#### Scale of Compensation.

35. (1) Where death results from an injury the amount of compensation shall be—

(a) The necessary expenses of the burial of the workman, not exceeding \$75;

(b) Where the widow or an invalid husband is the sole dependent, a monthly payment of \$20;

(c) Where the dependents are a widow or an invalid widower and one or more children, a monthly payment of \$20, with an additional monthly payment of \$5 for each child under the age of 16 years, not exceeding in the whole \$40;

(d) Where the dependents are children, a monthly payment of \$10 to each child under the age of 16 years, not exceeding in the whole \$40;

(e) Where the dependents are persons other than those mentioned in the foregoing clauses, a sum, reasonable and proportionate to the pecuniary loss to such dependents occasioned by the death, to be determined by the Board, but not exceeding \$20 per month to a parent or parents, and not exceeding in the whole \$30 per month.

(2) In the case provided for in clause (e) of subsection (1) the payments shall continue only so long as in the opinion of the Board it might reasonably have been expected had the workman lived he would have continued to contribute to the support of the dependents.

(3) Where there are both total and partial dependents the compensation may be allotted partly to the total and partly to the partial dependents.

(4) Exclusive of the expenses of burial, the compensation payable as provided by subsection (1) shall not in any case exceed 55 per cent. of the average earnings of the workmen, and if the compensation payable under that sub-section would in any case exceed that percentage it shall be reduced accordingly, and where several persons are entitled to monthly payments the payments shall be reduced proportionately.

36. (1) If a dependent widow marries, the monthly payments to her shall cease, but she shall be entitled in lieu of them to a sum equal to the monthly payments for two years.

(2) Subsection (1) shall not apply to payments to a widow in respect of a child.

37. (1) Payments in respect of a child shall cease when the child attains the age of 16 years or dies.

(2) Where a payment to any one of a number of dependents ceases, the remaining dependents shall be entitled to receive the same compensation as though they had been the only dependents at the time of the death of the workman.

38. Where permanent total disability results from the injury the amount of the compensation shall be a periodical payment during the life of the workman equal to 55 per

cent. of his average earnings during the previous twelve months if he has been so long employed, but if not then for any less period during which he has been in the employment of his employer.

39. (1) Where permanent partial disability results from the injury, the compensation shall be a periodical payment of 55 per cent. of the difference between the average earnings of the workman before the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident, and the compensation shall be payable during the lifetime of the workman.

(2) Notwithstanding the provisions of subsection (1) where in the circumstances the amount which the workman is able to earn after the accident has not been substantially diminished, the Board may, nevertheless, recognize an impairment of earning capacity, and may allow a lump sum in compensation.

40. (1) Where temporary total disability results from the injury, the compensation shall be the same as that prescribed by section 38 but shall be payable only so long as the disability lasts.

(2) Where temporary partial disability results from the injury, the compensation shall be the same as that prescribed by section 38, but shall be payable only so long as the disability lasts.

41. "Average earning" and "earning capacity" shall mean and refer to the average earnings or earning capacity at the time of the injury, and may be calculated upon the daily, weekly or monthly wages or other regular remuneration which the workman was receiving at the time of the injury or upon the average yearly earnings of the workman for three years prior to the injury, or upon the probable yearly earning capacity of the workman at the time of injury as may appear to the Board best to represent the actual loss of earnings suffered by the workman by reason of the injury, but not so as in any case to exceed the rate of \$1,200 per year.

42. (1) In fixing the amount of a weekly or monthly payment regard shall be had to any payment, allowance or benefit which the workman may receive from his employer during the period of his disability, including any pension, gratuity or other allowance provided wholly at the expense of the employer.

(2) Where the compensation is payable, any sum deducted from the compensation under subsection (1) may be paid to the employer out of the accident fund.

43. (1) Where any workman or dependent is entitled to compensation under this Part he shall file with the Board an application for such compensation, together with the certificate of the attending physician, if any, and such further or other proofs of his claim as may be required by the Board.

(2) It shall be the duty of every physician or surgeon attending or consulted upon any case of injury to any workman to furnish or cause to be furnished from time to time such reports, and in such form as may be required by the Board in respect of such injury.

(3) It shall also be the duty of every physician in attendance upon any injured workman to give all reasonable and necessary information, advice and assistance to enable such workman or his dependents, as the case may be, to make application for compensation, and to furnish such proofs as may be required by the Board.

(4) It shall be the duty of every employer, within three days after the happening of an accident to a workman in his employment by which the workman is disabled from earning full wages, to notify the Board in writing of the—

(a) happening of the accident and nature of it;

(b) time of its occurrence;

(c) name and address of the workman;

(d) place where the accident happened;

(e) name and address of the physician or surgeon, if any, by whom the workman was or is attended for the injury.

(f) any other particulars required by regulation of the Board.

(5) It shall be the duty of the employer to make such further and other reports respecting such accident and workman as may be required by the Board.

44. Payments of compensation shall be made in such manner and in such form as may appear to the Board to be most convenient, and in the case of minors or persons of unsound mind, payments may be made to such persons as, in the opinion of the Board, are best qualified in all the circumstances to administer such payments, whether or not the person to whom the payment is made is the legal guardian of such minor or person of unsound mind.

45. (1) The Board may, in its discretion, commute the whole or any part of the payments due or payable to the workman or any beneficiaries for a lump sum in lieu of such payments to be applied as directed by the Board.

(2) The Board may, in its discretion, instead of paying any compensation payable in a lump sum, divide the compensation into periodical payments.

(3) Where in any case, in the opinion of the Board, it will conserve the accident fund to provide a special surgical operation or other special medical treatment for a workman, and the furnishing of the same by the Board is, in the opinion of the Board, the only means of avoiding heavy payment for permanent disability, the expense of such operation or treatment may be paid out of the accident fund.

46. The Board may re-open, re-hear, re-determine, review or re-adjust any claim, decision, or adjustment, either because an injury has proven more serious or less serious than it was deemed to be, or because a change has occurred in the condition of a workman or in the number, circumstances or condition of dependents or otherwise.

47. Where the workman was at the date of the accident under twenty-one years of age and the review takes place more than six months after the accident, the amount of a periodical payment may be increased to the sum to which he would have been entitled if his average earnings had at the date of the accident been equal to what, if he had not been injured he would probably have been earning at the date of the review.

48. (1) The Board may from time to time require that any workman applying for or receiving compensation payments shall submit to medical examination by the Board or its duly appointed officers; and in default of such requirement being complied with, may withhold such compensation payments.

(2) The Board may require such proof from time to time of the existence and condition of any dependents in receipt of compensation payments as may be deemed by the Board necessary.

#### Accident Fund and Assessments.

49. The compensation provided for in this Act shall be paid out of a fund to be called "The Accident Fund."

50. For the purpose of creating and maintaining the accident fund, all industries within the scope of this Act shall, subject to sections 51 and 52, be divided into the following classes—

Class 1.—Lumbering, logging, saw-mills, manufacture of pulp or paper.

Class 2.—Wood-working, planing mills, furniture factories, piano or organ factories, cooperage.

Class 3.—Coal mining.

Class 4.—Mining (other than coal), reduction of ores and smelting, quarrying, manufacture of brick or lime.

Class 5.—Manufacture of iron and steel, and iron and steel products.

Class 6.—Car-shops, manufacture of vehicles.

Class 7.—Manufacture of compounds, paints, chemicals, liquors or beverages.

Class 8.—Manufacture of leather, leather goods, rubber or rubber goods.

Class 9.—Flour-milling and handling of grain; canning; pork-packing; manufacture of food products; tobacco and tobacco products.

Class 10.—Manufacture of cloth, textiles and clothing.

Class 11.—Printing, lithographing, engraving; manufacture of stationery.

Class 12.—Teaming, cartage, warehousing and storage.

Class 13.—Construction of buildings and wooden ships; mason work, structural carpentry, plumbing and painting.

Class 14.—Steel erection, steel bridge building, steel ship building.

Class 15.—Road-making, sewer construction, excavation.

Class 16.—Sub-aqueous construction, dredging, pile driving.

Class 17.—Construction and operation of electric railways, electric power lines and appliances.

Class 18.—Construction and operation of telegraphs and telephones.

Class 19.—Construction and operation of steam railways.

Class 20.—Navigation and stevedoring.

51. The Board may by regulation re-arrange any of the classes mentioned in section 50 or withdraw from any class, any industry or group of industries included therein, and transfer such industry or group of industries to any other classe, or form it into a separate class or may make new classes.

52. The Board shall assign every industry within the scope of this Part to its proper class; and where any industry includes several departments assignable to different classes, the Board may either assign such industry to the class of its principal or chief department, or may, for the purpose of this Act, divide such industry into two or more departments, assigning each of such departments to its proper class.

53. The Board shall on or before the first day of January of each year make an estimate of the assessments necessary to provide funds in each of the classes sufficient to meet all claims for compensation payable during the succeeding year.

54. The Board shall every year assess and levy upon and collect from the employers in each class by an assessment rated upon the pay-roll, or otherwise as the Board may deem proper, sufficient funds to meet all claims payable during the year.

55. Separate accounts shall be kept of the amounts collected and expended in respect of every class and of every fund set aside by way of reserve, but for the purpose of paying compensation the accident fund shall, nevertheless, be deemed one and indivisible.

56. (1) The Board may, in addition to the amount actually required in each class for the year, assess, levy and collect from any class or classes a surcharge or surcharges to be set aside as a reserve or reserves—

(a) by way of providing a contingent fund in aid of industries or classes which may become depleted or extinguished; or

(b) by way of providing a sinking fund for the capitalization of periodical compensation payments payable in future years; or

(c) by way of setting up a reserve fund for the equalizing of assessments; or

(d) for the purpose of raising a special fund to be used to meet the loss arising from any disaster or other circumstance which in the opinion of the Board would unfairly burden the employers in any class.

(2) The Board may, in respect of any industry or class where it is deemed expedient, assess, levy and collect in each year a sufficient amount to provide capitalized reserves which shall be deemed sufficient to meet the periodical payments accruing in future years in respect of all accidents during such year.

(3) Upon any such change being made as provided in section 52, the Board may make such adjustment and disposition of the funds, reserves and accounts of the classes affected as may be deemed just and expedient.

57. (1) Every employer shall pay into the accident fund such assessments as may be levied by the Board, and if any assessment or any part thereof is not duly paid in accordance with the terms of the levy, the Board shall have a right of action against the employer in respect of any amount unpaid, together with costs of such action.

(2) Assessments may be made in such manner and form, and by such procedure as the Board may deem adequate and expedient, and may be general as applicable to any class or sub-class, or special as applicable to any industry or part or department of an industry.

(3) Where an employer engages in any of the industries within the scope of this Part and has not been assessed in respect of it, the Board, if it is of opinion that the industry is to be carried on only temporarily, may require the employer to pay or to give security for the payment to the Board of a sum sufficient to pay the assessment for which the employer would have been liable if the industry had been in existence when the next preceding assessment was made.

58. The Board shall give notice to each employer in such manner as may be deemed by the Board proper and sufficient, of the amount of the assessments due from time to time in respect of his industry or industries, and the time or times when such assessments are due and payable.

59. Notwithstanding any provision of this Part respecting estimates of pay-rolls and notice to employers it shall be the duty of every employer, without demand from the Board, to cause to be paid to the Board the full amount of every assessment assessed or levied in accordance with this Part in respect to workmen in his employ who are entitled to compensation hereunder.

60. The Board may establish such sub-classifications differentials and proportions in the rates as between the different kinds of employment in the same class as may be deemed just; and where any particular industry is shown to be so circumstanced or conducted that the hazard is greater than the average of the class to which such industry is assigned, the Board may impose upon such industry a special rate, differential or assessment, to correspond with the excessive hazard of such industry.

61. If in any class the estimated assessment shall prove insufficient, the Board may make such further assessments and levies as may be necessary, or may temporarily advance the amount of any deficiency out of any reserve, and may add such amount to any subsequent assessment or assessments.

62. Assessments may, wherever it is deemed expedient, be collected in half-yearly, quarterly or monthly instalments, or otherwise; and where it appears that the funds in any class are sufficient for the time being, any instalment may be abated or its collection deferred.

63. On or before the first day of March in each year the amount of the assessment for the preceding calendar year shall be adjusted upon the actual requirements of the class and upon the correctly ascertained pay-roll of each industry, and the employer shall forthwith make up and pay to the Board any deficiency, or the Board shall refund to the employer any surplus, or credit the same upon the succeeding assessment as the case may require.

64. Where in any industry a change of ownership or employership has occurred, the Board may levy any part of such deficiency on either or any of such successive owners or employers, or pay or credit to any one or more of such owners such surplus

as the case may require, but as between or amongst such successive owners the assessment in respect of such employment shall, in the absence of an agreement between the respective owners or employers determining the same, be apportionable, as nearly as may be, in accordance with the proportions of the pay-rolls of the respective periods of ownership or employment.

65. In computing and adjusting the amount of the pay-roll of any industry, regard shall be had only to such portion of the pay-roll as represents workmen and work within the scope of this Part, and where the wages of any workman exceed the rate of \$1,200 per year, due and proper deduction may be made in respect of any such excess.

66. Every employer shall, on or before a date to be fixed by the Governor in Council, or whenever thereafter he shall have become an employer within the meaning of this Act, or whenever required from time to time by the Board so to do, cause to be furnished to the Board an estimate or estimates of the probable amount of the pay-roll of each of his industries within the scope of this Part, together with such further and other information as may be required by the Board for the purpose of assigning such industry to the proper class or classes, and of making the assessments hereunder, and shall likewise at or after the close of each calendar year, or at such other times as may be required by the Board, furnish certified copies or reports of his pay-roll or pay-rolls, verified by statutory declaration, for the purpose of enabling the Board to adjust and compute the amount of the assessment as provided in section 65.

67. (1) If an assessment or a special assessment is not paid at the time when it becomes payable the defaulting employer shall be liable to pay and shall pay as a penalty for this default such a percentage upon the amount unpaid, as may be prescribed by the regulations or may be determined by the Board.

(2) Any employer who refuses or neglects to make or transmit any pay-roll return or other statement required to be furnished by him under the provisions of section 66, or who refuses or neglects to pay any assessment, special or supplementary assessment, or the provisional amount of any assessment, or any instalment or part thereof, shall, in addition to any penalty or other liability to which he may be subject, pay to the Board the full amount or capitalized value, as determined by the Board, of the compensation payable in respect of any accident to a workman in his employ which happens during the period of such default, and the payment of such amount may be enforced in the same manner as the payment of an assessment may be enforced.

(3) The Board, if satisfied that such default was excusable, may in any case relieve such employer in whole or in part from liability under this section.

68. Where default is made in the payment of any assessment or special assessment, or any part of it, the Board may issue its certificate stating that the assessment was made the amount remaining unpaid on account of it and the person by whom it was payable and such certificate or a copy of it certified by the secretary to be a true copy, may be filed with the clerk of any County Court, and when so filed shall become an order of that court, and may be enforced as a judgment of the court against such person for the amount mentioned in the certificate.

69. The Board and any member of it, and any officer of the Board or person authorized by it for that purpose, shall have the right to examine the books and accounts of the employer and to make such other inquiry as the Board may deem necessary for the purpose of ascertaining whether any statement furnished to the Board under the provisions of section 66 is an accurate statement of the matters which are required to be stated therein or of ascertaining the amount of the pay-roll of any employer, or of ascertaining whether any industry or person is under the operation of this Part.

70. Every member of the Board and every officer or person authorized by it to make examination or inquiry under this section shall have power and authority to inquire and to take affidavits, affirmations or declarations as to any matter of such examination or inquiry, and to take statutory declarations required under section 66, and in all such cases to administer oaths, affirmations and declarations and certify to the same having been made.

71. The Board and any member of it and any officer or person authorized by it for that purpose, shall have the right at all reasonable hours to enter into the establishment of any employer who is liable to contribute to the accident fund, and the premises connected with it, and every part of them, for the purpose of ascertaining whether the ways, works, machinery or appliances therein are safe, adequate and sufficient, and whether all proper precautions are taken for the prevention of accidents to the workmen employed in or about the establishment or premises, and whether the safety appliances or safeguards prescribed by law are used and employed therein, or for any other purpose which the Board may deem necessary for the purpose of determining the proportion in which such employer should contribute to the accident fund.

72. No officer of the Board and no person authorized to make an inquiry under this Part shall divulge or allow to be divulged, except in the performance of his duties or under the authority of the Board, any information obtained by him or which has come to his knowledge in making or in connection with an inspection or inquiry under this Part.



### Liability for Assessments.

73. Where any work within the scope of this Part is performed under contract for any municipal corporation or public service commission, any assessment in respect of such work may be paid by such corporation or commission, as the case may be, and the amount of such premium deducted from any moneys due the contractor in respect of such work.

74. (1) Where any work within the scope of this Part is undertaken for any person by a contractor, both the contractor and the person for whom such work is undertaken shall be liable for the amount of any assessment in respect thereof, and such assessment may be levied upon and collected from either of them or partly from one and partly from the other; provided that in the absence of any term in the contract to the contrary the contractor shall, as between himself and the person for whom the work is performed, be primarily liable for the amount of such assessment.

(2) Where any work within the scope of this Part is performed under sub-contract, both the contractor and the sub-contractor shall be liable for the amount of the premiums in respect of such work; any such premiums may be levied upon and collected from either, or partly from one and partly from the other; provided that in the absence of any term in the sub-contract to the contrary the sub-contractor shall as between himself and the contractor be primarily liable for such premiums.

75. In the case of a work or service performed by an employer in any of the industries within the scope of this Part, for which the employer would be entitled to a lien under the Mechanics' Lien Act, it shall be the duty of the owner as defined by that Act to see that any sum which the employer is liable to contribute to the accident fund is paid, and if any such owner fails to do so he shall be personally liable to pay it to the Board, and the Board shall have the like powers and be entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment.

76. There shall be included among the debts which under "The Assignments Act," "The Companies' Winding Up Act," and "The Trustee Act," are, in the distribution of the property in the case of an assignment or death or in the distribution of the assets of a company being wound up under the said Acts, respectively, to be paid in priority to all other debts, the amount of any assessment the liability whereof accrued before the date of the assignment or death or before the date of the commencement of the winding up, and the said Acts shall have effect accordingly.

77. The Board may make such regulations as may be deemed requisite for the due administration and carrying out of the provisions of this Part, and may likewise prescribe the form and use of such pay-rolls, records, reports, certificates, declarations and documents as may be requisite.

78. The Board may prescribe penalties for the violation of any of the provisions of this Act, or for the breach of any rules, regulations or orders made under the authority of this Act, provided that such penalties shall be approved by the Governor-in-Council.

79. The penalties imposed by or under the authority of this Part shall be recoverable under the Summary Convictions Act or by an action brought by the Board, in any court of competent jurisdiction, and such penalties when collected shall be paid over to the Board, and shall form part of the accident fund.

### Associations.

80. (1) Where any association shall make rules for the prevention of accidents in the industry or industries represented by such association, such rules shall, if approved by the Board, be binding on all the employers included in the class, sub-class or group represented by such association whether or not such employers are members of such association.

(2) Where an association under the authority of its rules, appoints one or more inspectors, engineers or experts for the purpose of accident prevention, the Board may pay the salary and necessary expenses of any such inspector, engineer or expert out of the accident fund and charge the same to the account of the proper class, sub-class or group.

(3) The Board may on the application of any association make an allowance to such association to meet any expenses of such association and pay such allowance out of the accident fund and charge the same to the account of the class, sub-class or group represented by such association.

### Industrial Diseases.

81. (1) Where a workman suffers from an industrial disease and is thereby disabled from earning full wages at the work at which he was employed, or his death is caused by an industrial disease, and the disease is due to the nature of any employment in which he was engaged at any time within twelve months previous to the date of his disablement, whether under one or more employments, the workman or his dependents



shall be entitled to compensation as if the disease were a personal injury by accident and the disablement were the happening of the accident, subject to the modifications hereinafter mentioned, unless at the time of entering into the employment he had wilfully and falsely represented himself as not having previously suffered from the disease.

(2) If the workman at or immediately before the date of the disablement was employed in any process mentioned in the second column of the schedule hereto, and the disease contracted is the disease in the first column of the schedule set opposite to the description of the process, the disease shall be deemed to have been due to the nature of that employment unless the contrary is proved.

(3) Nothing in this section shall affect the right of a workman to compensation in respect of a disease to which this section does not apply, if the disease is the result of an injury in respect of which he is entitled to compensation under this Part.

82. The provisions of this Part relating to the organization of the Board, the classification of industries, and levying and collecting of assessments, or any of them shall become effective from and after a day to be named in a proclamation by the Governor-in-Council: the provisions of this Part respecting the payment of compensation and the right of the workman thereto shall become effective from and after a day to be named in any subsequent proclamation by the Governor-in-Council, and compensation shall be payable in respect of injuries occurring on and after the day named in such last mentioned proclamation, on which day also the Workmen's Compensation Act, Chapter 3 of the Acts of 1910, and amendments thereto, shall stand repealed.

83. This Part shall not apply to farm labourers, or domestic or menial servants or their employers.

## PART II.

84. Subject to section 88, sections 85 to 87 shall apply only to the industries to which Part I does not apply and to the workmen employed in such industries.

85. (1) Where personal injury is caused to a workman by reason of any defect in the condition or arrangement of the ways, works, machinery, plant, buildings or premises connected with, intended for or used in the business of his employer or by reason of the negligence of his employer or any person in the service of his employer, acting within the scope of his employment, the workman, or if the injury results in death, the legal personal representative of the workman, and any person entitled in case of death shall have an action against the employer and if the action is brought by the workman he shall be entitled to recover from the employer the damages sustained by the workman by or in consequence of the injury, and if the action is brought by the legal personal representatives of the workman or by or on behalf of persons entitled to damages under the Fatal Injuries Act, they shall be entitled to recover such damages as they are entitled to under that Act.

(2) Where the execution of any work is being carried into effect under any contract, and the person for whom the work is done owns or supplies any ways, works, machinery, plant, building or premises, and by reason of any defect in the condition or arrangement of them, personal injury is caused to a workman employed by the contractor or by any sub-contractor, and the defect arose from the negligence of the person for whom the work or any part of it is done or of some person in his service and acting within the scope of his employment, the person for whom the work or that part of the work is done shall be liable to the action as if the workman had been employed by him, and for that purpose shall be deemed to be the employer of the workman within the meaning of this Act, but any such contractor or sub-contractor shall be liable to the action as if this sub-section had not been enacted, but not so that double damages shall be recoverable for the same injury.

(3) Nothing in subsection (2) shall affect any right or liability of the person for whom the work is done and the contractor or sub-contractor as between themselves.

(4) A workman shall not by reason only of his continuing in the employment of the employer with knowledge of the defect or negligence which caused his injury be deemed to have voluntarily incurred the risk of the injury.

86. A workman shall hereafter be deemed not to have undertaken the risks due to the negligence of his fellow-workmen, and contributory negligence on the part of a workman shall not hereafter be a bar to recovery by him or by any person entitled to damages under the Fatal Injuries Act, in an action for the recovery of damages for an injury sustained by, or causing the death of the workman while in the service of his employer, for which the employer would otherwise have been liable.

87. Contributory negligence on the part of the workman shall nevertheless be taken into account in assessing the damages in any such action.

88. This Part shall not apply to farm labourers or domestic or menial servants or their employers.

89. This Part shall take effect on, from and after a day to be named in a proclamation by the Governor in Council.

## SCHEDULE.

| Description of Diseases.              | Description of Process.   |
|---------------------------------------|---|
| Anthrax.                              | Handling of wool, hair, bristles, hides, and skins.                           |
| Lead poisoning or its sequelae.       | Any process involving the use of lead or its preparations or compounds.       |
| Mercury poisoning or its sequelae.    | Any process involving the use of mercury or its preparations or compounds.    |
| Phosphorus poisoning or its sequelae. | Any process involving the use of phosphorus or its preparations or compounds. |
| Arsenic poisoning or its sequelae.    | Any process involving the use of arsenic or its preparations or compounds.    |
| Ankylostomiasis.                      | Mining.   |

**Mechanics' Liens.**

Chapter 2.—1. This Act may be cited as "The Mechanics' Lien Act."

## Interpretation.

## 2. In this Act—

(a) "Contractor" shall mean a person contracting with or employed directly by the owner or his agent for the doing of work or service or placing or furnishing materials for any of the purposes mentioned in this Act;

(b) "material" or "materials" shall include every kind of moveable property;

(c) "owner" shall extend to any person, body corporate or politic, including a municipal corporation and a railway company, having any estate or interest in the land upon or in respect of which the work or service is done, or materials are placed or furnished, at whose request and

(i) upon whose credit, or

(ii) on whose behalf, or

(iii) with whose privity and consent, or

(iv) for whose direct benefit

work, or service is performed or materials are placed or furnished, and all persons claiming under him or them whose rights are acquired after the work or service in respect of which the lien is claimed is commenced or the materials furnished have been commenced to be furnished.

(d) "registrar" means registrar of deeds;

(e) "sub-contractor" shall mean a person not contracting with or employed directly by the owner or his agent for the purposes aforesaid, but contracting with or employed by a contractor, or under him by another sub-contractor.

(f) "wages" shall mean money earned by a mechanic or laborer for work done, whether by the day or other time or as piece work.

3. Nothing in this Act shall extend to any public street or highway, or to any work or improvement done or caused to be done by a municipal corporation thereon.

4. (1) Every agreement, verbal or written, expressed or implied, on the part of any workman, servant, labourer, mechanic or other person employed in any kind of manual labour intended to be dealt with in this Act, that this Act shall not apply, or that the remedies provided by it shall not be available for the benefit of such person, shall be null and void.

(2) This section shall not apply to a manager, officer or foreman, or to any other person whose wages are more than \$5 a day.

5. No agreement shall deprive any person otherwise entitled to a lien under this Act who is not a party to the agreement, of the benefit of the lien, but it shall attach, notwithstanding such agreement.

6. Unless he signs an express agreement to the contrary, and in that case subject to the provisions of section 4, any person who performs any work or service upon or in respect of, or places or furnishes any materials to be used in the making, constructing, erecting, fitting, altering, improving or repairing of any erection, building, railway, land, wharf, pier, bulkhead, bridge, trestlework, vault, mine, well, excavation, fence, sidewalk, pavement, fountain, fishpond, drain, sewer, aqueduct, roadbed, way, fruit or ornamental trees, or the appurtenances to any of them, for any owner, contractor, or sub-contractor, shall by virtue thereof have a lien for the price of such work, service or materials upon the erection, building, railway, land, wharf, pier, bulkhead, bridge, trestlework, vault, mine, well, excavation, fence, sidewalk, paving, fountain, fishpond, drain, sewer, aqueduct, roadbed, way, fruit or ornamental trees, and appurtenances, and the land occupied thereby or enjoyed therewith, or upon or in respect of which such work or service is performed, or upon which such materials are placed or furnished to be used, limited, however, in amount to the sum justly due to the person entitled to the lien and to the sum justly owing (except as herein provided) by the owner.

7. Where work or service is done or materials furnished upon or in respect of the land of a married woman with the privity and consent of her husband he shall be deemed to be acting as well for himself so as to bind his own interest, and also as her agent for the purposes of this Act, unless before doing such work or service or furnishing such materials the person doing or furnishing the same shall have had actual notice to the contrary.

8. (1) The lien shall attach upon the estate or interest of the owner in the property mentioned in section 6.

(2) Where the estate or interest upon which the lien attaches is leasehold, the fee simple may also, with the consent of the owner thereof, be subject to the lien, provided that such consent is testified by the signature of the owner upon the claim of lien at the time of the registering thereof, verified by affidavit.

(3) Where the land upon or in respect of which any work or service is performed, or materials are placed or furnished to be used, is incumbered by a prior mortgage or other charge; and

(a) The selling value of the land is increased by the work or service, or by the furnishing or placing of the materials; and

(b) The mortgagee consents to the performance of such work or service or the furnishing, or placing of such materials; the lien shall attach upon such increased value in priority to the mortgage or other charge.

(4) Such lien, upon registration, as in this Act provided, shall attach and take effect from the date of the registration as against subsequent purchasers, mortgagees, or other incumbrancers.

9. Where any of the property upon which a lien attaches is wholly or partly destroyed by fire any money received by reason of any insurance thereon by an owner or prior mortgagee or chargee shall take the place of the property so destroyed, and shall be subject to the claims of all persons for liens to the same extent as if such money was realized by a sale of such property in an action to enforce the lien.

10. Save as herein otherwise provided, the lien shall not attach so as to make the owner liable for a greater sum than the sum payable by the owner to the contractor.

11. Save as herein otherwise provided, where the lien is claimed by any person other than the contractor the amount which may be claimed in respect thereof shall be limited to the amount owing to the contractor or sub-contractor or other person for whom the work or service has been done or the materials placed or furnished.

12. (1) In all cases the person primarily liable upon any contract under or by virtue of which a lien may arise shall, as the work is done or materials are furnished under the contract, deduct from any payments to be made by him in respect of the contract, and retain for a period of thirty days after the completion or abandonment of the contract, twenty per cent. of the value of the work, service and materials actually done, placed or furnished as mentioned in section 6, and such value shall be calculated on the basis of the contract price, or if there is no specific contract price, then on the basis of the actual value of the work, service, or materials.

(2) Where the contract price or actual value exceeds \$15,000, the amount to be retained shall be fifteen per cent. instead of twenty per cent.

(3) The lien shall be a charge upon the amount directed to be retained by this section in favour of sub-contractors whose liens are derived under persons to whom such moneys so required to be retained are respectively payable.

(4) All payments up to eighty per cent. or eighty-five per cent. where the contract price or actual value exceeds \$15,000, of such price or value made in good faith by an owner to a contractor, or by a contractor to a sub-contractor, or by one sub-contractor to another sub-contractor, before notice in writing of such lien given by the person claiming the lien to him, shall operate as a discharge *pro tanto* of the lien.

(5) Payment of the percentage required to be retained under subsections (1) and (2) may be validly made so as to discharge all liens or charges in respect thereof after the expiration of the period of thirty days mentioned in sub-section 1, unless in the meantime proceedings have been commenced to enforce any lien or charge against such percentage as hereinafter provided.

13. If an owner, contractor or sub-contractor makes a payment to any person entitled to a lien under section 6 for or on account of any debt justly due to him for work or service done or for materials placed or furnished to be used at therein mentioned, for which he is not primarily liable, and within three days afterwards gives, by letter or otherwise, written notice of such payment to the person primarily liable, or his agent, such payment shall be deemed to be a payment on his contract generally to the contractor or sub-contractor primarily liable, but not so as to effect the percentage to be retained by the owner as provided by section 12.

14. (1) The lien shall have priority over all judgments, executions, assignments, attachments, garnishments and receiving orders recovered, issued or made after such lien arises, and over all payments or advances made on account of any conveyance or mortgage after notice in writing of such lien to the person making such payments or after registration of a claim for such lien as hereinafter provided.

(2) Where there is an agreement for the purchase of land, and the purchase money or part thereof is unpaid, and no conveyance has been made to the purchaser, he shall, for the purposes of this Act, be deemed a mortgagor and the seller a mortgagee.

(3) Except where it is otherwise provided by this Act no person entitled to a lien on any property or money shall be entitled to any priority or preference over another person of the same class entitled to a lien on such property or money, and each class of lien holders shall rank *pari passu* for their several amounts, and the proceeds of any sale shall be distributed among them *pro rata* according to their several classes and rights.

15. (1) Every mechanic or labourer whose lien is for wages shall, to the extent of thirty days' wages, have priority over all other liens derived through the same contractor or sub-contractor to the extent of and on the twenty per cent. or fifteen per cent., as the case may be directed to be retained by section 12, to which the contractor or sub-contractor, through whom such lien is derived is entitled, and all such mechanics and labourers shall rank thereon *pari passu*.

(2) Every wage-earner shall be entitled to enforce a lien in respect of a contract not completely fulfilled.

(3) If the contract has not been completed when the lien is claimed by a wage earner, the percentage shall be calculated on the value of the work done or materials furnished by the contractor or sub-contractor by whom such wage earner is employed, having regard to the contract price, if any.

(4) Where the contractor or sub-contractor makes default in completing his contract the percentage shall not, as against a wage earner claiming a lien, be applied by the owner or contractor to the completion of the contract or for any other purpose, nor to the payment of damages for the non-completion of the contract by the contractor or sub-contractor, nor in payment or satisfaction of any claim against the contractor or sub-contractor.

(5) Every device by an owner, contractor or sub-contractor to defeat the priority given to a wage-earner for his wages, and every payment made for the purpose of defeating or impairing a lien, shall be null and void.

#### Material.

16. (1) During the continuance of a lien no part of the material affected thereby shall be removed to the prejudice of the lien.

(2) Material actually brought upon any land to be used in connection with such land for any of the purposes enumerated in section 6, shall be subject to a lien in favour of the person furnishing it until placed in the building, erection or work, and shall not be subject to execution or other process to enforce any debt other than for the purchase thereof, due to the person furnishing the same.

#### Registration of Claim.

17. A claim for lien may be registered in the registry of deeds for the registration district in which the land is situated.

18. (1) A claim for lien shall state—

(a) the name and residence of the person claiming the lien, and of the owner of the property to be charged (or of the person whom the person claiming the lien, or his agent, believes to be the owner of the property proposed to be charged) and of the person for whom and on whose credit the work or service was, or is to be, done, or materials furnished or placed, and the time within which the same was, or is to be done, or furnished or placed;

(b) a short description of the work or service done, or to be done, or materials furnished or placed, or to be furnished or placed;

(c) the sum claimed as due or to become due;

(d) a description of the land to be charged;

(e) the date of expiry of the period of credit, if any, agreed upon by the lien holder for payment for his work or service or materials, where credit has been given.

(2) The claim may be in one of the forms A or B in the schedule to this chapter, or to the like effect, and shall be verified by the affidavit (form C) of the person claiming the lien, or of his agent or assignee having a personal knowledge of the matters required to be verified, and the affidavit of the agent or assignee shall state that he has such knowledge.

(3) Where it is desired to register a claim for lien against the lands of a railway company, it shall be a sufficient description of such lands to describe them as the lands of such railway company, and every such claim for lien shall be registered in the registry of deeds for the registration district in which such lien is claimed to have arisen.

19. A claim for lien may include claims against any number of properties, and any number of persons claiming liens on the same property may unite therein (form D), but when more than one lien is included in one claim each lien shall be verified by affidavit (form C), as provided in the next preceding section of this Act.

20. (1) Substantial compliance only with the next two preceding sections of this Act shall be required, and no lien shall be invalidated by reason of the failure to comply with any of the requisites of such sections, unless in the opinion of the court or judge who has power to try the action under this Act, the owner, contractor, or sub-contractor, or mortgagee or other person, as the case may be, is prejudiced thereby, and then only to the extent to which he is thereby prejudiced.

(2) Nothing in this section contained shall be construed as dispensing with the registration required by this Act.

21. The registrar, upon payment of a fee of twenty-five cents, shall register the claim so that the same may appear as an incumbrance against the land so described.

22. Where the claim for lien is so registered the person entitled to such lien shall be deemed the purchaser *pro tanto* and within the provisions of "The Registry Act," but, except as in this Act provided, "The Registry Act" shall not apply to any lien arising under this Act.

23. (1) A claim for lien by a contractor or sub-contractor, in cases not otherwise provided for, may be registered before or during the performance of the contract, or within thirty days after the completion or abandonment thereof.

(2) A claim for lien for materials may be registered before or during the furnishing or placing thereof, or within thirty days after the furnishing or placing of the last material so furnished or placed.

(3) A claim for lien for services may be registered at any time during the performance of the service or within thirty days after the completion of the service.

(4) A claim for lien for wages may be registered at any time during the performance of the work for which such wages are claimed, or within thirty days after the last work is done for which the lien is claimed.

(5) In the case of a contract which is under the supervision of an architect, engineer or other person upon whose certificate payments are to be made, the claim for lien by a contractor may be registered within the time mentioned in subsection (1), or within seven days after the architect, engineer or other person has given, or has, upon application to him by the contractor, refused to give a final certificate.

#### Expiry and Discharge of Lien.

24. Every lien for which a claim is not registered shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof, unless in the meantime an action is commenced to realize the claim or in which the claim may be realized under the provisions of this Act, and a certificate thereof (form E) is registered in the registry office in which the claim for lien might have been registered.

25. (1) Every lien for which a claim has been registered shall absolutely cease to exist on the expiration of ninety days after the work or service has been completed or materials have been furnished or placed, or after the expiry of the period of credit, where such period is mentioned in the claim for lien registered, or in the cases provided for in subsection (5) of section 23, on the expiration of thirty days from the registration of claim, unless in the meantime an action is commenced to realize the claim or in which the claim may be realized under the provisions of this Act, and a certificate is registered as provided by the next preceding section.

(2) Where the period of credit mentioned in the claim for lien registered has not expired, it shall nevertheless cease to have any effect on the expiration of six months from the registration or any re-registration thereof if the claim is not again registered within that period, unless in the meantime an action is commenced and a certificate thereof has been registered as provided by subsection (1).

26. If there is no period of credit, or if the date of the expiry of the period of credit is not stated in the claim so registered, the lien shall cease to exist upon the expiration of ninety days after the work or service has been completed or materials furnished or placed, unless in the meantime an action is commenced and a certificate thereof registered as provided by section 24.

27. The right of a lien holder may be assigned by an instrument, in writing and, if not assigned, upon his death shall pass to his personal representative.

28. (1) A lien may be discharged by a receipt signed by the claimant, or his agent, duly authorized in writing, acknowledging payment, and verified by affidavit and registered.

(2) The receipt shall be numbered and entered like other instruments, but shall not be copied in any registry book, and there shall be entered against the entry of the lien to which the discharge relates the word "discharged" and the registration number of such discharge.

(3) The fee shall be the same as for registering a claim.

(4) Upon application, the court or judge having jurisdiction to try an action to realize a lien, may allow security for or payment into court of the amount of the claim, and may thereupon order that the registration of the lien be vacated or may vacate the registration upon any other proper ground and a certificate of the order may be registered.

(5) Where the certificate required by sections 24 and 25 has not been registered within the prescribed time, and an application is made to vacate the registration of a claim for lien after the time for registration of the certificate required by sections 24, 25 or 26, the order vacating the lien may be made *ex parte* upon production of the certificate of the registrar certifying the facts entitling the applicant to such order.

#### Effect of Taking Security or Extending Time.

29. (1) The taking of any security for, or the acceptance of any promissory note or bill of exchange for, or the taking of any acknowledgment of the claim, or the giving of time for the payment thereof, or the taking of any proceedings for the recovery, or the recovery of a personal judgment for the claim, shall not merge, waive or pay, satisfy, prejudice or destroy the lien unless the claimant agrees, in writing, that it shall have that effect.

(2) Where any such promissory note or bill of exchange has been negotiated, the lien holder shall not thereby lose his lien if, at the time of bringing his action to enforce it, or where an action is brought by another lien holder, he is, at the time of proving his claim in such action, the holder of such promissory note or bill of exchange.

(3) Nothing in subsection (2) shall extend the time limited by this Act for bringing the action to enforce the lien.

(4) A person who has extended the time for payment of a claim for which he has a lien, to obtain the benefit of this section, shall commence an action to enforce such lien within the time prescribed by this Act, and shall register a certificate as required by sections 24, 25 or 26, but no further proceedings shall be taken in the action until the expiration of such extension of time.

30. Where the period of credit in respect of a claim has not expired, or where there has been an extension of time for payment of the claim, the lien holder may nevertheless, if an action is commenced by any other person to enforce a lien against the same property, prove and obtain payment of his claim in such action as if the period of credit or the extended time had expired.

#### Lien Holder's Right to Information.

31. (1) Any lien holder may at any time demand of the owner or his agent the terms of the contract or agreement with the contractor for and in respect of which the work, service or material is or is to be performed or furnished or placed, and if such owner or his agent does not, at the time of such demand or within reasonable time thereafter, inform the person making such demand of the terms of such contract or agreement, and the amount due and unpaid upon such contract or agreement, or if he knowingly falsely states the terms of the contract or agreement, or the amount due or unpaid thereon, and if the person claiming the lien sustains loss by reason of such refusal or neglect or false statement, the owner shall be liable to him in an action therefor for the amount of such loss.

(2) The court, or judge having jurisdiction to try an action to realize a lien, may, on a summary application at any time before or after an action is commenced for the enforcement of such lien, make an order requiring the owner or his agent to produce and allow any lien holder to inspect any such contract or agreement upon such terms as to costs as he may deem just.

#### Liens on Mining Claims.

32. (1) Every labourer or workman to whom wages is due by any person, firm or corporation for work or labour performed at a mine or in connection with mining opera-

tions carried on by such person, firm or corporation, shall have a lien upon the property and mining leases or licenses in respect to which such work and labour has been performed to the extent of two months' wages.

(2) Such lien shall have priority over all other liens, mortgages or charges upon the said property and mining leases or licenses, whether the same are prior or subsequent to the performing of such work and labour.

(3) In the registration of such lien it shall not be necessary to describe the property and mining leases affected thereby, but it shall be sufficient to designate such property and mining leases as the property and mining leases of such person or corporation.

(4) Such lien shall be registered in the office of the Commissioner of Public Works and Mines at Halifax, as well as at the registry of deeds, of the registration district in which the mine is situate, and the provisions of this Act shall, in so far as the same are applicable, apply to registration in the office of said Commissioner.

(5) Proceedings to enforce a lien created by this section may be taken at any time within six months from the registration thereof and shall be deemed to be taken on behalf of all persons holding such liens at the time such proceedings are commenced or within thirty days thereafter.

(6) In this section the expression "mine" means a mine to which the Coal Mines Regulation Act or the Metalliferous Mines Regulation Act applies, and the expression "mining" shall have the same meaning as the expression "to mine" in the Mines Act.

#### Realising Liens and Procedure.

33. (1) The liens created by this Act may be enforced by an action to be brought and tried in the county court of the county court district in which the lands are situated, whether the amount claimed is over \$800 or not, and according to the ordinary procedure of such court, except where the same is varied by this Act.

(2) Without issuing a writ of summons an action under this Act shall be commenced by filing a statement of claim in the office of the clerk.

(3) Any number of lien holders claiming liens on the same property may join in the action, and any action brought by a lien holder shall be taken to be brought on behalf of all other lien holders on the property in question.

(4) It shall not be necessary to make any lien holders defendants to the action, but all lien holders served with a notice of trial shall, for all purposes, be treated as if they were parties to the action.

(5) Every such lien holder who is not a party to the action shall file his claim, verified by affidavit (form G).

(6) The statement of claim shall be served within one month after it is filed, but the court or judge having power to try the action may extend the time for service thereof.

(7) The statement of defence may be in one of the forms H or I. The time for delivering a statement of defence shall be the same as for entering an appearance in an action in the Supreme Court.

34. (1) After the delivery of the statement of defence, where the plaintiff's claim is disputed, or after the time for delivery of defence in all other cases, where it is desired to try the action otherwise than at the ordinary sittings of the court, either party may apply to a judge who has power to try the action to fix a day for the trial thereof, and the judge shall make an appointment fixing the day and place of trial, and on the day appointed, or on such other day to which the trial is adjourned, shall proceed to try the action and all questions which arise therein, or which are necessary to be tried to fully dispose of the action, and to adjust the rights and liabilities of the persons appearing before him, or upon whom the notice of trial has been served, and at the trial shall take all accounts, make all inquiries, and give all directions, and do all things necessary to try and otherwise finally dispose of the action, and of all matters, questions and accounts arising in the action, or at the trial, and to adjust the rights and liabilities of, and give all necessary relief to, all parties to the action, or who have been served with the notice of trial, and shall embody all results in the judgment. (Form K.)

(2) The judge who tries the action may order that the estate or interest charged with the lien be sold, and when by the judgment a sale of the estate or interest charged with the lien is ordered, the judge who tries the action may direct the sale to take place at any time after judgment, allowing, however, a reasonable time for advertising such sale.

(3) The judge who tries the action may also order the sale of any materials, and authorize the removal thereof.

(4) Any lien holder who has not proved his claim at the trial of any action to enforce a lien, on application to the judge who tried the action, upon such terms as to costs and otherwise as are just, may be let in to prove his claims at any time before the amount realized in the action for the satisfaction of liens has been distributed, and where such claim is proved and allowed, the judge shall amend the judgment so as to include such claim therein.



(5) Any lien holder for an amount not exceeding one hundred dollars, or any alien holder not a party to the action, may attend in person at the trial of an action to enforce a lien, and on any proceedings in such action, or may be represented thereat or thereon by a solicitor.

(6) Where a sale is had the moneys arising therefrom shall be paid into court to the credit of the action, and the judge upon whose order the lands were sold shall direct to whom such moneys shall be paid, and may add to the claim of the person conducting the sale his actual disbursements incurred in connection therewith; and where sufficient to satisfy the judgment and costs is not realized by the sale, he shall certify the amount of such deficiency, and the names of the persons, with the amounts, who are entitled to recover the same, and the persons by the judgment adjudged to pay the same, and such persons shall be entitled to enforce the same by execution or otherwise, as a judgment of the court.

35. The party who obtains an appointment fixing the day and place of trial, shall, at least eight clear days before the day fixed for the trial, serve a notice of trial, which may be in the form L in the schedule, or to the like effect, upon the solicitors for the defendants who appear by solicitors, and upon all lien holders who have registered their liens as required by this Act, and upon all other persons having any registered charge or incumbrance or claim on the said lands who are not parties, or, who being parties, appear personally in the said action, and such service shall be personal unless otherwise directed by the court or judge who is to try the action, and the court or judge may, in lieu of personal service, direct in what manner the notice of trial shall be served.

36. Where more than one action is brought to realize liens in respect to the same property, the court or judge having power to try such actions may, on the application of any party to any one of such actions, or on the application of any other person interested, consolidate all such actions into one action, and may give the conduct of the consolidated action to any plaintiff in his discretion.

37. Any lien holder entitled to the benefit of the action may apply for the carriage of the proceedings, and the court or judge having power to try the action may thereupon make an order giving such lien holder the carriage of the proceedings, and such lien holder shall for all purposes in the action, be the plaintiff in the action.

38. In any action where the total amount of the claims of the plaintiff and other persons claiming liens is one hundred dollars or less, the judgment of the court or judge having power to try such action shall be final, binding, and without appeal, except that upon application, within fourteen days after judgment is pronounced to the court or judge who tried the same, a new trial may be granted.

39. In all actions where the total amount of the claim of the plaintiff and other persons claiming liens is more than one hundred dollars, any party affected thereby may appeal therefrom to the Supreme Court, *en banc*, whose judgment shall be final and binding, and no appeal shall lie therefrom. The "Judicature Act" and the rules of the Supreme Court shall, so far as the same are applicable, apply to all appeals under this section.

40. (1) The costs of the action under this Act awarded to the plaintiffs and successful lien holders, shall not exceed in the aggregate an amount equal to twenty-five per cent. of the amount of the judgment, besides actual disbursements, and shall be in addition to the amount of the judgment, and shall be apportioned and borne in such proportion as the judge who tries the action may direct.

(2) Where the costs are awarded against the plaintiff or other persons claiming the lien, such costs shall not exceed an amount in the aggregate equal to twenty-five per cent. of the claims of the plaintiff and other claimants, besides actual disbursements, and shall be apportioned and borne as the judge may direct.

(3) In case the least expensive course is not taken by a plaintiff under this Act, the costs allowed to the solicitor shall in no case exceed what would have been incurred if the least expensive course had been taken.

(4) Where a lien is discharged or vacated under section 28 of this Act, or where in an action judgment is given in favor of or against a claim for a lien, in addition to the costs of an action, the judge may allow a reasonable amount for costs of drawing and registering the lien or for vacating the registration of the lien.

(5) The costs of and incidental to all applications and orders made under this Act, and not otherwise provided for, shall be in the discretion of the judge.

41. Every statement of claim filed in the City of Halifax in an action to enforce a lien under this Act shall be accompanied by a fee of fifty cents, which shall be included in the costs, and paid by law library stamp.

42. All judgments in favor of lien holders shall adjudge that the person or persons personally liable for the amount of the judgment shall pay any deficiency which may remain after sale of the property adjudged to be sold, and whenever on a sale of any property to realize a lien under this Act sufficient to satisfy the judgment and costs is not realized therefrom, the deficiency may be recovered against the property of such person or persons by the usual process of the court.

43. A certificate vacating a lien may be in one of the forms M or N in the schedule, or to the like effect.

#### Miscellaneous Provisions.

44. (1) Every mechanic or other person who has bestowed money, or skill and materials upon any chattel or thing in the alteration and improvement in its properties, or for the purpose of impairing an additional value to it, so as thereby to be entitled to a lien upon such chattel or thing for the amount or value of the money, or skill and materials bestowed, shall, while such lien exists, but not afterwards, in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid, have the right, in addition to all other remedies provided by law, to sell by auction the chattel or thing in respect to which the lien exists, on giving one week's notice by advertisement in a newspaper published in the county in which the work was done, or in case there is no newspaper published in such county, then in a newspaper circulating therein, stating the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the last known place of residence (if any) of the owner, if he is a resident of such county.

(2) Such mechanic, or other person, shall apply the proceeds of the sale in payment of the amount due him, and the cost of advertising and sale, and shall upon application pay over any surplus to the person entitled thereto.

45. When in any action brought under the provisions of this Act, any claimant fails for any reason to establish a valid lien, he may nevertheless recover therein a personal judgment against the party or parties to the action for such sum or sums of money as appear to be due him from such party or parties, and which he might recover in an action on the contract against such party or parties.

46. The forms in the schedule hereto, or forms similar thereto, or to the like effect, may be adopted in all proceedings under this Act.

47. The Acts and parts of Acts in the schedule hereto are repealed to the extent in such schedule mentioned.

#### SCHEDULE.

(Forms A--N omitted.)

| Acts Repealed.                      | Extent of Repeal.  |
|-------------------------------------|--------------------|
| Revised Statutes, 1900,<br>Ch. 171. | The Whole Chapter. |
| Acts 1902, Ch. 27.                  | The Whole Act.     |
| Acts 1903, Ch. 68.                  | Section 3.         |
| Acts 1904, Ch. 25.                  | The Whole Act.     |
| Acts 1905, Ch. 31.                  | The Whole Act.     |
| Acts 1909, Ch. 40.                  | The Whole Act.     |
| Acts 1914, Ch. 40.                  | The Whole Act.     |

#### Employment of Children—School Attendance in Cities and Towns.

Chapter 4.—2. In this Act unless the context otherwise requires—

(a) the expression "child" means any boy or girl between the ages of six and sixteen years living in the city or town;

6. Every person who—

(a) refuses to give to any officer of the Board the name and age of any child living with him; or

(b) gives a false name or age; or

(c) willfully gives any false information in regard to any matter about which information is required for the purposes of this Act, shall, for each such offence, be liable to a penalty not exceeding twenty dollars, and in default of payment to imprisonment for a period not exceeding twenty days.

7. (1) Except as herein otherwise provided, every child shall attend some school during school hours on every day on which such school is open, unless such child is excused from such attendance by the Board upon the presentation to the Board of satis-

factory evidence, showing that such child is prevented from attendance upon school, or application to study, by mental, physical, or other good and sufficient reasons.

(2) Any child over twelve years of age who passes a satisfactory examination in grade seven of common school work; or

(3) Any child over thirteen years of age who shall show to the satisfaction of the Board that necessity requires him or her to go to work may be granted by the Board an employment certificate permitting him to be absent from school while actually engaged in some remunerative employment. The person applying to the Board for such certificate for his child shall submit a statement from the prospective employer describing the occupation in which the child will be engaged. In engaging such child to work the employer shall acknowledge the receipt from the Board of such employment certificate and shall return it to the Board within five days after the child leaves his employ, under a penalty of not more than twenty dollars. Before engaging in work the child shall be required to obtain from the school medical inspector or other physician approved by the Board a certificate of physical fitness for such work.

8. (1) Every parent or person in charge of any child shall cause such child to attend some school as provided in the next preceding section.

(2) Every parent or person in charge of any child who fails to comply with this section shall be liable to a penalty not exceeding twenty dollars, and in default of payment to imprisonment for a period not exceeding one month; provided, that before any such penalty is incurred, the parent, or other person liable therefor, shall be notified in writing, sent to his or her place of business or residence by the secretary of the Board, of the effect of such non-compliance, and shall have an opportunity by compliance with the requirements of this Act in respect to compulsory attendance to avoid the imposition of such penalty.

(3) The stipendiary magistrate may impose conditions upon any person found guilty under this section and suspend sentence, subject to such conditions, and upon proof at any time that such conditions have been violated, may pass sentence on such person.

26. (1) No child under the age of sixteen years shall be employed by any person to labour in any business whatever or street trade, nor accompany any person engaged in any street trade, during the hours from nine o'clock in the morning until half-past three in the afternoon, of any school day, unless such child delivers to the employer or has in his possession a certificate signed by the secretary of the Board, or a certificate signed by the principal that such child has passed a satisfactory examination in grade seven of common school work.

(2) Every person who employs any child or any person engaged in any street trade who permits a child to accompany him contrary to the provisions of this section shall for each offence be liable to a penalty of not less than ten dollars nor more than fifty dollars, and in default of payment to imprisonment for not more than one month.

27. The Board, or such officer or person as it appoints, shall in the months of November and May in every year, and at such other times as it deems necessary, examine into the condition of the children employed in every manufacturing or other establishment, and for this purpose may enter, inspect and examine at all reasonable hours, by day or by night, any such establishment or any part thereof, and ascertain whether all the provisions of this Act are duly observed, and prosecute every person violating any of such provisions.

28. (1) On demand, on any such examination as is mentioned in the next preceding section, the proprietor, superintendent, or manager of such establishment or manufactory shall exhibit to the officer or person appointed by the Board to make such examination, a correct list of all children under the age of sixteen years employed in such manufactory or establishment, with the required certificate of attendance at school or place of instruction.

(2) Any such proprietor, superintendent or manager who fails to furnish such list, or to send such list to the office of the Board when requested in writing to do so, or wilfully delays the officer or person appointed by the Board in the exercise of any power under this Act, or obstructs such officer or person so appointed in the discharge of his duties under this Act, shall be liable to a penalty of not less than ten dollars nor more than fifty dollars, and in default of payment to imprisonment for not more than one month.

#### Examination and Licensing of Moving Picture Operators.

Chapter 9.—3. The Governor in Council may from time to time make regulations for or in relation to or incidental to any one or more or to any part or parts of any one or more of the following matters—

(h) the examining, regulating and licensing of cinematograph operators and apprentices.<sup>1</sup>

<sup>1</sup> Regulations have been issued respecting the subjects enumerated in this section.

## NEW BRUNSWICK.

## CONSOLIDATED STATUTES OF 1903.

## Protection of Employees as Voters.

Chapter 3.—99. If any elector shall . . . by threats or force, intimidate any person to vote or forbear to vote at such election, he shall for every such act forfeit the sum of eighty dollars, and be forever debarred from voting at any election.

## Earnings of Married Women.

Chapter 78.—5. Every married woman, whether married before or after the commencement of this Chapter, shall be entitled to have and to hold as her separate property, and to dispose of as her separate property, the wages, earnings, money and property gained or acquired by her in any employment, trade or occupation in which she is engaged or carries on, and in which her husband has no proprietary interest, or gained or acquired by the exercise of any literary, artistic or scientific skill.

## Apprenticeship.

Chapter 83.—1. Children under the age of fourteen years may be bound as apprentices until that age by their father, or in case of his death or incompetency, by their mother or legal guardian and if illegitimate, by their mother. If they have no parent competent to act, and no guardian, they may bind themselves with the assent of two justices of the county.

2. Minors above the age of fourteen years, not having parents or guardians competent to act, may be bound in the same manner, with their consent expressed in the indenture, and testified by their signing the same; females to the age of eighteen years, or to the time of their marriage within that age, and males to the age of twenty-one years.

3. No minor shall be bound unless by an indenture of two parts, sealed and delivered by both parties, and one part shall be kept by the parent or guardian, when executed by them respectively or deposited with the town clerk or county secretary, for the use of the minor.

4. No indenture shall be binding on the minor after the death of the master, nor shall any indenture be assignable, nor the minor be taken out of the Province, unless with his consent declared in the presence of a justice, and certified by him.

5. The Overseers of the Poor may bind as apprentices the children of any poor person who has become chargeable to the parish, and children whose parents are dead, who have become chargeable themselves, whether they are under or above the age of fourteen years; females to the age of eighteen years, or to the time of their marriage within that age, and males to the age of twenty-one years.

6. Provision shall be made in every indenture for teaching children to read and write, and to cypher as far as the rule of three, and for religious and other instruction, and such other benefit and allowance to the minor as may be agreed upon; and in case of sickness, for medical attendance, board and care.

7. Before any indenture is finally concluded, the parties shall go before a justice, who shall examine whether the apprentice has any just objection thereto, and certify thereon accordingly; and no indenture shall be deemed executed without such certificate.

8. All considerations of money, or other things paid or allowed by the master upon any contract or apprenticeship made in pursuance of this Chapter, shall be paid or secured to the sole use of the apprentice.

9. In the case of the non-performance of the agreement, or of cruel or hard usage by the master, any apprentice may apply to two justices, who shall hear the complaint, and if they find sufficient cause, make an order for his discharge, or other relief. If either party be dissatisfied therewith, he may appeal to the next session of the county court, where the matter shall be determined.

10. No person shall sell upon credit to any apprentice, and every action founded on such credit, brought against an apprentice, shall be void.

11. Any person harbouring an apprentice, shall be liable to a penalty of forty dollars, but this shall not interfere with any right of action the master may have in respect of such harbouring.

12. Every apprentice bound by indenture may, at the expiration of his term, demand his discharge. If the master refuses, he may apply to a justice, who shall, after notice, require the reason for such refusal. If no sufficient cause be shown in five days, the justice shall discharge the apprentice.

13. Any two justices may, on the complaint of any master made on oath against an indented apprentice, for absenting himself from service, or touching any miscarriage, or illbehaviour in his service, issue a warrant to bring the apprentice before them to hear the complaint, and punish the apprentice by commitment to the common gaol not exceeding one month.

14. Parents or other persons who have bound minors, shall have a right to inquire into their condition and treatment, and protect them from the cruelty of, or any other violation of their contract, by their master.

#### **Railways—Definition of Terms.**

Chapter 91.—2. Where the words following occur in this Chapter, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

(1) "The Special Act" shall be construed to mean any Act authorizing the construction of a railway, and with which this Chapter is incorporated.

3. Where the following words occur, both in this Chapter and the special Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

(2) "The Company" shall mean the company or party authorized by the Special Act to construct the railway.

(6) "Highways" shall mean all public roads, streets, squares, lanes, and other public ways and communications.

(11) "The Railway" shall mean any railway which the company has authority to construct or operate, and shall include all stations, depots, wharves, property and works connected therewith, and also any railway bridge or other structure which any company is authorized to construct under a special Act.

#### **Railways—Application of Act.**

Chapter 91.—4. Where not otherwise expressed, this section and the following sections to section 33 inclusive, shall apply to every railway which is subject to the legislative authority of the Legislature of this Province, and is authorized to be constructed by any special Act passed in or after the year one thousand eight hundred and ninety-one, and shall also apply to every railway company which shall have heretofore duly elected to become subject to section 4 of the Act of Assembly 54 Victoria, Chapter 18; and shall also apply to every railway company which shall elect to become subject to this section by serving a written notice of such election under its seal upon the Provincial Secretary, whose duty it shall be, at the expense of the company, to publish a notice of such election in the 'Royal Gazette' for at least four consecutive issues immediately subsequent to such election; and the said sections of this Chapter from this section to section 33 inclusive shall be deemed to be incorporated with every such special Act, or with the Act incorporating said company so making such election; and all provisions of such sections so incorporated, unless they are expressly varied or excepted by such special Act, shall apply to the undertaking, authorized thereby, so far as applicable to the undertaking, and shall, as well as the clauses and provisions of every other Act incorporated with such special Act, form a part of such special Act, and be construed together therewith as forming one Act.

#### **Railway Bridges, Tunnels, etc.**

Chapter 91.—18. The highways and bridges shall be regulated as follows:—

(5) Whenever a bridge or any other erection, or structure, or tunnel shall be constructed over or on a railway, or whenever it shall become necessary to reconstruct any highway bridge, or other erection, or structure, or tunnel already built, and under or through which it is proposed to construct a railway, or to make large repairs to the same, such bridges or erections, structures or tunnels, and the approaches thereto, if necessary, shall be constructed or reconstructed by and at the cost of the railway company or other owner of bridge erections, or structures, or tunnels, as the case may be, and shall be so constructed, and at all times be maintained at a sufficient height from the surface of the rails of the railway to admit of an open and clear headway of not less than seven feet between the top of the highest freight cars then running on the railway

and the lowest beams, members or portions of such bridge, or other erection or tunnel, and thereafter any railway company, before using higher freight cars than those running on their railway at the time of the construction or reconstruction of or large repairs to such bridge, or other erection, or structure, or tunnel, shall, after having first obtained the consent of the municipality or of the owners of such highway bridge, or other erection or structure, or tunnel, raise the said bridge or other erection or structure or tunnel and the approaches thereto, if necessary, at the costs and charges of the railway company, so as to admit as aforesaid an open and clear headway of not less than seven feet over the highest freight car then about to be used on the railway.

#### **Railway Employees to Wear Badges—Negligence of Railway Employees.**

Chapter 91.—29. (1) Every servant of the undertaking employed in a passenger train or at a station for passengers shall wear upon his hat or cap a badge which shall indicate his office, and he shall not without such badge be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, or to meddle or interfere with any passenger or his baggage or property.

(8) Every locomotive engine shall be furnished with a bell of at least thirty pounds weight, and with a steam whistle.

(9) The bell shall be rung, or the whistle sounded, at the distance of at least eighty rods from the place where the railway crosses any highway, and be kept ringing or be sounded at short intervals until the engine has crossed such highway, under a penalty of eight dollars for every neglect thereof, to be paid by the company, who shall also be liable for all damages sustained by any person by reason of such neglect, one-half of which penalty and damages shall be chargeable to and collected by the company from the engineer having charge of such engine neglecting to sound the whistle or ring the bell as aforesaid.

#### **Transportation of Explosives.**

[Chapter 91, section 29 (12) and (13) deals, with the transportation of explosives.]

#### **Railways—Actions for Damages.**

Chapter 91.—30 (1). All actions for indemnity for damage or injury sustained by reason of the railway shall be instituted within one year next after the time of the supposed damage sustained, or if there be a continuation of damage, then within one year next after the doing or committing such damage ceases, and not afterwards; and the defendants may plead, "not guilty by Statute," and give this chapter and the special Act, and the special matter in evidence at any trial to be had thereupon, and may prove that the same was done in pursuance of and by authority of this chapter, and the special Act.

#### **Railway Companies not relieved from Liability by Inspection of Railways.**

Chapter 91. 56. No inspection had under this Chapter, nor anything in this Chapter contained, or done or ordered or omitted to be done or ordered under or by virtue of the provisions of this Chapter, shall relieve, or be construed to relieve, a railway company of or from any liability or responsibility vesting upon it towards His Majesty, or the wife or husband, parent or child, executor or administrator, or other personal representative of any person, for anything done, or omitted to be done, by the company; or for any wrongful act, neglect, or default, misfeasance, malfeasance or nonfeasance of the company, or in any manner or way lessen the liability or responsibility of the company, or weaken or diminish the liability of the company under the laws existing in the Province.

#### **Accidents on Railways—Notices and Returns.**

Chapter 91.—59. Every railway company shall as soon as possible, and within forty-eight hours after the occurrence upon the railway belonging to the company, of any accident attended with serious personal injury to any person using the same, or whereby a bridge, culvert, viaduct or tunnel, on or under the railway, has been broken, or so damaged as to be impassable or unfit for immediate use, give notice thereof to the Chief Commissioner of Public Works, and any company which wilfully omits to give such notice, shall forfeit to His Majesty the sum of two hundred dollars for every day during which such omission to give the same continues.

60. Every railway company shall within ten days after the first days of January and July in each and every year, make to the Chief Commissioner of Public Works, under the oath of the president, secretary or superintendent of the company, a true and particular return of all accidents and casualties (whether to life or property),

which have occurred on the railway of the company during the half year next preceding each of the said periods respectively, setting forth—

(1) The causes and nature of such accidents and casualties.

(2) The points at which they occurred, and whether by night or by day.

(3) The full extent thereof and all particulars of the same, and shall also at the same time return a true copy of the existing by-laws of the company, and of their rules and regulations for the management of the company and of their railway.

61. The Chief Commissioner of Public Works may order and direct from time to time the form in which such returns shall be made up, and may order and direct any railway company to make up and deliver to him from time to time, in addition to the said periodical returns, returns of accidents occurring in the course of the public traffic upon the railway belonging to such company, whether attended with personal injury or not, in such form and manner as the Chief Commissioner deems necessary and requires for his information with a view to the public safety.

62. If the returns so verified are not delivered within the respective times herein prescribed, or within fourteen days after the same has been so required by the Chief Commissioner, every company making default shall forfeit to His Majesty the sum of one hundred dollars for every day during which the company neglects to deliver the same.

63. All said returns shall be privileged communications, and shall not be evidence in any Court whatever.

### Rules for Railway Employees.

Chapter 91.—69. Every railway company shall make such by-laws, rules and regulations, to be observed by the conductors, engine drivers, and other officers and servants of the company, and by all other companies and persons using the railway of such company, and such regulations in regard to the construction of the carriages and other vehicles to be used in the trains on the railway of the company, as are requisite for ensuring the perfect carrying into effect of the provisions of this part of this Chapter, and the orders and regulations of the Lieutenant Governor in Council.

70. The notice of the by-law, or of any order or notice of the Chief Commissioner of Public Works, may be proved by proving the delivery of a copy thereof to the office, servant, or person, or that he has signed a copy thereof, or that a copy thereof was posted in some place where his work or his duties, or some of them, were to be performed.

### Operation of Trains—Safety Appliances.

Chapter 91.—77. Every railway company which runs trains upon the railway for the conveyance of passengers, shall provide and cause to be used in and upon such trains, such known apparatus and arrangements as best afford good and sufficient means of immediate communication between the conductors and the engine drivers of such trains while the trains are in motion, and good and sufficient means of applying by the powers of the steam engine or otherwise, at the will of the engine driver or other person appointed to such duty, the brakes to the track wheels of the locomotive or tender, or both, or of all or any of the cars or carriages composing the train, and of disconnecting the locomotive or tender, and cars and carriages from each other by any such power or means, and also such apparatus and arrangements as best and most securely place and fix the seats or chairs in the cars or carriages, and shall alter such apparatus and arrangements, or supply new apparatus and arrangements from time to time, as the Chief Commissioner of Public Works, with the sanction of the Lieutenant Governor in Council, may order.

78. Every railway company which fails to comply with any of the provisions contained in the last preceding section of this chapter, shall forfeit to His Majesty a sum not exceeding two hundred dollars for every day during which such default continues.

### Safety Provisions—Packing, etc.

Chapter 91.—86. (1) This section shall apply to every railway and railway company within the legislative authority or jurisdiction of this province.

(2) In this section the expression "packing" means a packing of wood or metal, or some other equally solid and substantial material of not less than three inches in thickness, and which, where by this section any space is required to be filled in, shall extend to one and a half inches of the crown of the rails in use on any such railway, shall be neatly fitted so as to come against the web of such rails, and shall be well and solidly fastened to the ties on which such rails are laid;

(3) The spaces behind and in front of every railway frog or crossing, and between the fixed rails of every switch, where such spaces are less than five inches in width, shall be filled with packing up to the under side of the head of the rail;



(4) The spaces between any wing rail and any railway frog, and between any guard rail and track rail alongside of it, shall be filled with packing at the splayed ends, so that the whole splay shall be so filled where the width of the space between the rails is less than five inches, such packing not to reach higher than the underside of the head of the rail; provided, however, that the Chief Commissioner of Public Works may allow such filling to be left out from the month of December to the month of April in each year, both months included;

(5) The oil cups or other appliances used for oiling the valves of every locomotive in use upon any railway, shall be such that no employee shall be required to go outside the cab of the locomotive while the same is in motion for the purpose of oiling such valves.

### Prison Labour.

Chapter 98 with amendment.—1. In all cases where any person has been convicted under any Act of the Legislature of the Province of New Brunswick by any police magistrate, stipendiary magistrate, or justice of the peace, and is in and by such conviction adjudged to pay a pecuniary penalty, and in default thereof, or in addition thereto, to suffer imprisonment, and whether or not such conviction imposes hard labour, such police magistrate, or stipendiary magistrate, or justice of the peace, as the case may be, may in and by such warrant of commitment issued upon such conviction, direct that the person committed under such warrant, shall, while so committed, perform hard labour and where any person is committed to any gaol under a commitment requiring hard labour, such hard labour may be performed either in the gaol, the gaol yard, or any part of the gaol limits, or in case the commitment is to the gaol in the city of Saint John, anywhere within the County of the City and County of Saint John.

3. In all cases, where any person has been convicted under any Act of the Legislature of the Province of New Brunswick, or under any by-laws made thereunder, by any police magistrate of any city or incorporated town, and is in and by such conviction adjudged to pay a pecuniary penalty, and in default thereof, or in addition thereto to suffer imprisonment, and whether or not such conviction imposes hard labour, such police magistrate may, in and by such warrant of commitment issued upon such conviction, direct that the person committed under said warrant shall, while so committed, perform hard labour, within the limits of said city or incorporated town under the direction of such policeman or constable as the city or town council shall appoint for that purpose; and for the purposes of this section, the lock-up house of any city or town is hereby constituted a gaol or place of imprisonment for prisoners convicted as aforesaid. 1909, c. 28, s. 1, part.

4. Each city and town council is hereby authorized and empowered to make by-laws and regulations for the proper enforcement and carrying out of hard labour sentences within its limits. 1909, c. 28, s. 1, part.

### Sunday Labour.

Chapter 107.—1. (1) No person shall on the Lord's Day, commonly called Sunday, do or exercise any worldly labour, business or work of his ordinary calling (conveying travellers or His Majesty's mail by land or by water, selling drugs and medicines, and other works of necessity and charity only excepted.)

(2) The word "person" in this Chapter shall be construed as including corporations, except where the context requires a contrary interpretation, and any corporation which requires or permits its employees to carry on the business of such corporation, or to labour or work therefor, contrary to the provisions of this Chapter, shall for each offence forfeit a sum not exceeding \$100.

(3) Nothing herein contained shall prevent the delivery of milk or ice to customers on Sunday; or shall prevent telephone or telegraph companies from keeping open their offices for the purpose of receiving, transmitting and delivering messages; or the keepers of livery stables and cabs from letting on Sunday, horses and vehicles, with or without a driver for purposes other than that of doing business or work; or the proprietors of daily morning newspapers, or their employees from doing such kinds of work as may be necessary for the purpose of preparing and printing a Monday morning's edition of such newspaper; . . . or any sexton from performing the ordinary work in connection with any church or the putting forth to sea of any vessel for any destination without the limits of the Province; or to prevent any vessel coming into port, or any pilot or pilot-boat, or any tug-boat from going in search of vessels making port, or from bringing any vessel into port, or taking her out of port on Sunday; or shall prevent the carrying on in any mill or manufactory of any manufacturing process of such a nature that it is essential to proceed with the work and development

thereof continuously for a period over six days to prevent injury or damage to the material so in course of manufacture; or the operation in any mine of any pumps; or from stream driving; or from towing, booming or freighting any lumber, or raft of lumber or timber when the same is in transit, and it is essential to proceed with the transport of the same to prevent injury thereto, or to prevent such delay in getting the same to its place of destination as would be liable to lead to the loss or injury of any such lumber; or shall apply to the loading or unloading of fishing smacks or boats; or to the moving of through freight trains in the Province of New Brunswick.

(4) Provided, however, that nothing in this Chapter contained shall operate to prevent the loading or unloading or other work necessary to be done, in order to enable any steamship to prepare for sailing in case said steamship is under contract with the Canadian government to sail at any time certain, and it is necessary in order to fill said contract that said work should be done.

6. Any person who shall violate any of the provisions of this chapter shall for each such offence, on conviction, be liable to a penalty of not less than one dollar and costs, and not exceeding twenty dollars and costs, in addition to any other penalty prescribed by law for the same act.

7. Nothing herein contained shall relieve employees or servants who violate the provisions of this chapter from the penalties thereby imposed in the case of such violation.

#### **Earnings of Minors—Suits for Wages.**

Chapter 116.—20. A minor or person under the age of twenty-one years may sue in the said courts for any sum within their jurisdiction for wages due to him, in the same manner as if he were of age, and such infant shall be liable for costs, exactly as if of full age.

#### **Exemption of Wages from Garnishment.**

Chapter 134.—33. Wages due the judgment debtor for his personal labour and services on a hiring, to the extent of twenty dollars, shall be exempt from garnishment.

#### **Mechanics' Liens.**

Chapter 147 with amendment.—1. This chapter may be cited as "The Mechanics' Lien Act."

2. Wherever the following words occur in this chapter or in the schedule thereto, they shall be construed in the manner hereinafter mentioned unless a contrary intention appears:—

(1) "Contractor" shall mean a person contracting with or employed directly by the owner for the doing of work, or placing or furnishing of machinery or materials for any of the purposes mentioned in this chapter.

(2) "Sub-contractor" shall mean a person not contracting with or employed directly by the owner for the purposes aforesaid, but contracting with or employed by the "contractor" or under him by a "sub-contractor."

(3) "Owner" shall extend to and include a person having any estate or interest in the lands upon or in respect of which the work is done or materials or machinery are placed or furnished, at whose request and upon whose credit, or on whose behalf, or with whose privity or consent, or for whose direct benefit any such work is done, or materials or machinery placed or furnished, and all persons claiming under him whose rights are acquired after the work in respect of which the lien is claimed is commenced, or the materials or machinery furnished have been commenced to be furnished.

(4) "Wage-earner" shall mean any person performing labour for wages, by the day, week or month as the case may be, and not by the job.

(5) "County Court" in this chapter shall mean the County Court of the county in which the lands sought to be affected by the lien are situate.

(6) "Judge" shall mean the Judge of the County Court of the county in which the lands sought to be affected by the lien are situate, or the Judge of a County Court before whom proceedings may be taken in case of the said Judge being interested or related to any of the parties.

(7) "Registrar" shall mean the registrar of deeds of the county where the lands sought to be affected by the lien are situate.

(8) "Registered" shall mean filed in the office of the registrar of deeds of the county where the lands sought to be affected by the lien are situate.

(9) "Building" shall extend to and include any insurance carried upon a building, and any moneys payable in any insurance policy in respect to such building. 1915, c. 60.

3. No agreement shall be held to deprive anyone otherwise entitled to a lien under this chapter, and not a party to the agreement, of the benefit of the lien, but the lien shall attach notwithstanding such agreement.

4. Unless he signs an express agreement to the contrary, every mechanic, machinist, builder, labourer, contractor or other person doing work upon or furnishing materials to be used in the construction, alteration or repair of any building or erection, or erecting, furnishing or placing machinery of any kind in, upon or in connection with any building, erection or mine, shall, by virtue of being so employed or furnishing, have a lien for the price of the work, machinery or materials upon the building, erection or mine and the lands occupied thereby or connected therewith.

5. The lien shall attach upon the estate and interest of the owner, as defined by this Chapter, in the building, erection or mine upon or in respect of which the work is done or the materials or machinery placed or furnished, and the land occupied thereby or connected therewith.

6. (1) Every wage-earner who performs labour for wages upon the construction, alteration or repairs of any building or erection, or in erecting or placing machinery of any kind in, upon, or in connection with any building, erection or mine, shall, to the extent of the interest of the owner, have upon the building, erection or mine, and the land occupied thereby or connected therewith, a lien for such wages, not exceeding the wages for thirty days, or a balance equal to his wages for thirty days.

(2) The lien for wages mentioned in this section shall attach, when the labour is in respect of a building, erection or mine on property belonging to the wife of the person at whose instance the work is done, upon the estate or interest of the wife in such property as well as upon that of her husband.

(3) Every device by any owner or contractor which shall be adopted in order to defeat the lien of wage-earners under this Chapter, shall, as respects such wage-earners, be null and void.

7. The owner shall, in the absence of a stipulation to the contrary, be entitled to retain, for a period of thirty days after the completion of the contract,—

(a) Fifteen per centum of the price to be paid to the contractor when such price does not exceed \$1,000.

(b) Twelve and a half per centum of the price to be paid to the contractor when such price is more than \$1,000, but does not exceed \$5,000; and

(c) In all other cases, ten per centum of the price to be paid to the contractor.

8. In case the lien is claimed by a sub-contractor, the amount which may be claimed in respect thereof shall be limited to the amount payable to the contractor or sub-contractor (as the case may be) for whom the work has been done, or the materials or machinery have been furnished or placed.

9. (1) All payments up to ninety per centum of the price to be paid for the work, machinery or materials, as defined by section 4 of this Chapter, made in good faith by the owner to the contractor, or by the contractor to the sub-contractor, or by one sub-contractor to another sub-contractor, before notice in writing by the person claiming the lien has been given to such owner, contractor or sub-contractor (as the case may be) of the claim of such person, shall operate as a discharge *pro tanto* of the lien created by this Chapter, but this section shall not apply to any payment made for the purpose of defeating or impairing a claim to a lien existing or arising under this Chapter.

(2) A lien shall, in addition to all other rights or remedies given by this Chapter, also operate as a charge to the extent of ten per centum of the price to be paid by the owner for the work, machinery or materials as defined by section 4 of this Chapter, up to ten days after the completion of the work or of the delivery of the materials in respect of which such lien exists, and no longer, unless such notice in writing be given as herein provided.

(3) A lien for wages for thirty days or for a balance equal to the wages for thirty days, shall, to the extent of the said ten per centum of the price to be paid to the contractor, have priority over all other liens under this Chapter, and over any claim by the owner against the contractor for or in consequence of the failure of the latter to complete his contract.

(4) When the total price to be paid, or contracted or agreed to be paid for the whole of the work, machinery or materials, as defined by section 4 of this Chapter does not exceed \$1,000, the three preceding subsections of this section shall be read as if the word "ninety" was omitted therefrom, and the word "eighty-five" inserted in lieu thereof, and as if the word "ten" was omitted therefrom and the word "fifteen" inserted in lieu thereof; and where the said total price exceeds \$1,000, but does not exceed \$5,000, the said first three subsections shall be read as if the word "ninety" was omitted therefrom and the word "eighty-seven and a half" inserted in lieu thereof, and as if the word "ten" was omitted therefrom and the words "twelve and a half" inserted in lieu thereof.

10. Save as herein provided the lien shall not attach so as to make the owner liable to a greater sum than the sum payable by the owner to the contractor.

11. All persons furnishing material to or doing labour for the person having a lien under this Chapter, in respect of the subject of such lien, who notified the owner of

the premises sought, to be affected thereby, within thirty days after such materials furnished or labour performed, of any unpaid account or demand against such lien-holder for such material or labour, shall be entitled, subject to the provisions of sections 6 and 9, to a charge therefor *pro rata* upon any amount payable by such owner under said lien, and if the owner thereupon pays the amount of such charge to the person furnishing material or doing labour as aforesaid, such payment shall be deemed a satisfaction *pro tanto* of such lien.

12. In case of a dispute as to the validity or amount of an unpaid account or demand, of which notice is given to the owner under the preceding section, the same shall be first determined by action in the proper Court in that behalf; and pending the proceedings to determine the dispute, so much of the amount of the lien as is in question therein may be withheld from the person claiming the lien, or the Judge may order such amount paid into a bank to the credit of the cause.

13. In case the person primarily liable to the person giving such notice as mentioned in section 11, fails to pay the amount for which judgment is recovered within ten days after the judgment is obtained, the owner, contractor or sub-contractor may pay the same out of any moneys due by him to the person primarily liable as aforesaid, on account of the work done, or materials or machinery furnished or placed in respect of which the debt arose; and such payment if made after the judgment as aforesaid (or if made without any action being previously brought or dispute existing, then if the debt in fact existed, and to the extent thereof) shall operate as a discharge *pro tanto* of the money so due as aforesaid to the person primarily liable.

14. During the continuance of a lien, no portion of the property or machinery affected thereby shall be removed to the prejudice of the lien; and any attempt at such removal may be restrained by application to the Judge. Disobedience of the Judge's order restraining such removal shall be punishable by attachment for contempt by the Judge as in the Supreme Court for disobedience of an order of a Judge of that Court.

15. (1) A claim of lien applicable to the case may be registered in the office of the registrar, and shall state:—

(a) The name and residence of the claimant and of the owner of the property to be charged, and of the person for whom and upon whose credit the work is done or materials or machinery furnished, and the time or period (if any time is specified in the contract) within which the same was or was to be done or furnished;

(b) The work done or materials or machinery furnished;

(c) The sum claimed;

(d) The description of the land to be charged;

(e) The date of expiry of the period of credit agreed to by the lien-holder for payment for his work, materials or machinery, where credit has been given.

(2) The claim may be in one of the Forms (1), (2), and (3) given in the schedule to this chapter, and shall be verified by the affidavit of the claimant, or of his agent or assignee having full knowledge of the matters required to be verified, and the affidavit of an agent or assignee shall state that he has such knowledge.

16. A claim for wages may include the claims of any number of wage-earners who may choose to unite therein. In such case each claimant shall verify his claim by his affidavit, but need not repeat the facts set out in the claim, and an affidavit substantially in accordance with Form (4) of this chapter shall be sufficient.

17. (1) The registrar, upon payment of his fees, shall register the claim so that the same may appear as an incumbrance against the land therein described, and the day, hour and minute when the same was registered shall appear upon the registry.

(2) The fee registration shall be twenty-five cents; if several parties join in one claim the registrar shall have a further fee of ten cents for every person after the first.

(3) The registrar shall not be bound to copy in any registry book any claim or affidavit, but he shall enter such claim in a book to be kept for that purpose, to be called "The Mechanics' Lien Book," and shall insert therein particulars of the claim, with a description of the property against which the lien is sought.

18. Where a claim is so registered the person entitled to the lien shall be deemed a purchaser *pro tanto*, and within the provisions of the Registry Act, chapter 151 of these Consolidated Statutes, but except as herein otherwise provided, The Registry Act, shall not apply to any lien arising under this Chapter.

19. (1) Where the lien is for wages under sections 6 or 9, the claim may be registered at any time within thirty days after the last day's labour for which the wages are payable.

(2) Such lien shall not be entitled to the benefit of the provisions of sections 6 and 9, after the said period, unless the same is duly registered before the expiration of the said period so limited.

(3) Such lien shall have the same priority for all purposes after as before registration.

20. In other cases the claim of lien may be registered before the commencement or during the progress of the work, or within thirty days from the completion thereof, or from the supplying or placing of the machinery.

21. Every lien which has not been duly registered under the provisions of this Chapter, shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof, unless in the meantime proceedings are instituted and are being prosecuted without delay to realize the claim under the provisions of this Chapter, and a certificate of the pending of such proceedings, (which may be granted by the judge), is duly registered.

22. (1) Every lien which has been duly registered under the provisions of this Chapter shall absolutely cease to exist after the expiration of ninety days after the work has been completed, or materials or machinery furnished, or wages earned, or the expiry of the period of credit, where such period is mentioned in the claim of lien filed, unless in the meantime proceedings are instituted and are being prosecuted without delay to realize the claim under the provisions of this chapter, and a certificate of such proceedings (which may be granted by the judge) is duly registered.

(2) The registration of a lien under this chapter shall cease to have any effect at the expiration of six months from the registration thereof, unless the lien shall be again registered within the same period, except in the meantime proceedings have been instituted to realize the claim and are being prosecuted without delay, and a certificate of the pendency of such proceedings as aforesaid has been duly registered as provided in the preceding subsection.

23. If there is no period of credit, or if the date of the expiry of the period of credit is not stated in the claim so filed, the lien shall cease to exist upon the expiration of ninety days after the work has been completed or materials or machinery furnished, unless in the meantime proceedings have been instituted pursuant to section 22 of this Chapter and are being prosecuted without delay, and a certificate of the pendency of such proceedings as aforesaid has been duly registered as provided in section 22.

24. In the event of the death of a lien-holder his right of lien shall pass to his personal representatives, and the right of a lien-holder may be assigned by an instrument in writing.

25. A lien may be discharged by a receipt signed by the claimant or his agent, duly authorized in writing, acknowledging payment and verified by affidavit, and filed in the office of the registrar; such receipt shall be numbered and entered by the registrar in the Mechanics' Lien Book. The fees shall be the same as for registering a claim for lien.

26. When there is a contract for the execution of the work as hereinbefore mentioned, the registration of all discharges of liens shall be at the cost of the contractor, unless the Judge otherwise orders.

27. (1) Upon application to the Judge, he may receive security or payment into Court in lieu of the amount claimed, and may thereupon vacate the registry of the lien.

(2) The Judge may annul the said registry upon any other ground.

28. (1) Every mechanic or other person who has bestowed money or skill or materials upon any chattel or thing in the alteration and improvement in its properties, or which imparts an additional value to it, so as to be entitled by law to a lien upon such chattel or thing for the amount or value of the money or skill and materials bestowed, shall, while such lien exists, but not afterwards, in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid, have the right, in addition to all other remedies provided by law, to sell the chattel or thing in respect of which the lien exists, on giving one week's notice by advertisement by posters put up in three or more public places adjacent to the place of sale, stating the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of the sale (which shall be a public place), and the name of the auctioneer, and leaving a notice in writing two weeks prior to the sale at the last or known place of residence (if any) of the owner, if he be a resident of such county.

(2) Such mechanic or other person shall apply the proceeds of the sale in payment of the amount due to him and the cost of advertising and sale, and shall, upon application, pay over any surplus to the person entitled thereto.

29. In case an owner chooses to make payments to the mechanics, labourers, or other persons referred to in section 4 of this Chapter, for or on account of, but not exceeding, the amount of the just debts due to them for work done or materials or machinery placed or furnished as therein mentioned, without the proceedings mentioned in section 12, and shall within three days afterwards give, by letter or otherwise, written notice of such payment to the contractor or his agent, such payment shall, as between the owner and the contractor, be deemed to be a payment to the contractor, on the contract generally, but not so as to affect the percentage to be retained by the owner as provided by sections 7 and 9.

30. (1) Before the contractor for any work shall be entitled to receive a payment on his contract, it shall be his duty to produce to and leave with the owner or his agent an affidavit or a statutory declaration by the contractor (or his agent, competent from personal knowledge to speak to the facts), stating that all persons, who up to that time have been employed on the work and entitled to wages, have been paid in full up to and inclusive of the fourteenth day previous to such payment being made by the owner to the contractor. The said affidavit or statutory declaration may be to the effect set forth in Forms (5) and (6) in the Schedule to this Chapter.

(2) Or if it is admitted, or otherwise appears that any wages are unpaid, the contractor shall not be entitled to receive the amount otherwise payable to him without there being deducted therefrom an amount sufficient to cover what is so unpaid to such wage-earners.

(3) The said affidavit or statutory declaration shall be conclusive evidence in favour of the owner making the payment; unless at or before making the payment he had actual and express notice of the wages not having been paid.

(4) Any payment made on the contract without the owner having received such affidavit, or statutory declaration, or with actual and express notice of unpaid wages, shall not be a valid payment as against persons whose wages are unpaid at the time of the payment on the contract.

(5) The affidavit or statutory declaration aforesaid shall not be necessary when the architect's estimate for the month, in case the contract provides for such estimate, does not exceed \$100, or when the payment made in good faith in respect of the progress of the work for the month (in case the contract does not provide for estimates) does not exceed \$100.

31. The lien of wage-earners for thirty days' wages, or for a balance equal to thirty days' wages, provided for by sections 6 and 9, shall not be defeated or impaired by any garnishment had subsequently to the contract, or by any execution subsequently issued, or by reason of the work contracted for being unfinished, or of the price, for that or any other reason, not being payable to the contractor.

32. (1) In case of the contract not having completely fulfilled when lien is claimed by wage-earners, the percentage aforesaid shall be calculated on the work done or materials furnished by the contractor.

(2) Every wage-earner shall be entitled to enforce a lien in respect of an unfinished building to the same extent as if the building were finished.

(3) The percentage as aforesaid shall not, as against wage-earners, be applied to the completion of the work by the owner when the contractor makes default in completing the same, nor to the payment of damages for the non-completion thereof by the contractor.

33. When a mortgage is given to secure an intended loan of money, which money is to be paid thereafter according to or with reference to the progress of work done, or materials or machinery placed or furnished as aforesaid, on the land mortgaged, no advance thereafter made by the mortgagee shall have priority over the claims of mechanics, labourers or other persons referred to in section 4 of this Chapter as aforesaid, if the mortgagee at or before the time of such advance has actual and express notice that there are any such claims as aforesaid unpaid; nor unless at the time of such advance he shall require and receive from the mortgagor or his contractor an affidavit or statutory declaration, stating that all such persons as aforesaid have been paid in full up to the time of the advance. The said affidavit or statutory declaration may be to the effect set forth in Form (7) in the Schedule to this Chapter.

34. In case of the sale or mortgage of an unfinished house or building, if its being an unfinished house or building is such as to be apparent to an ordinary observer, the purchaser, before paying his purchase money, or giving a mortgage or other value or security for any balance of such purchase money, or the mortgagee before advancing any money on the security of a mortgage or otherwise, shall require from the vendor (in the case of a sale, or from the mortgagor in the case of a mortgage) a similar affidavit or statutory declaration of the payment of all claims as is provided for in section 33 of this Chapter, and the purchaser or mortgagee shall not be entitled to priority in respect to such claims, if at or before the time aforesaid he had actual and express notice that there were such claims as aforesaid unpaid; nor unless he shall have received such affidavit or statutory declaration aforesaid.

35. In cases where there is an agreement for the purchase of land, and the purchase money, or part thereof, is unpaid, and no conveyance is made to the purchaser, the purchaser shall for the purposes of this Chapter, and within the meaning thereof, be deemed a mortgagor and the seller a mortgagee.

36. When any proceeding is taken to enforce a lien under this Chapter, in case a mortgagee of the land is served with a written notice of such proceeding being had, he shall thereafter be entitled to attend the proceedings; and in case of being so served, he shall not thereafter, without the leave hereinafter mentioned, take any



proceedings for sale or foreclosure, nor proceed to exercise any power of sale until the proceedings to enforce the lien have terminated; but he may without leave serve any notices required to be served in order to the due exercise of the power. The leave aforesaid may be granted by the Judge, and shall only be granted by consent, or (if without consent) on a reasonable consideration of all the circumstances in view of what would be just to both parties.

37. Every claim of lien shall give an address, at which all notices and papers may be served, and service of any notice or paper may be effected by sending the same by registered letter to the address so given.

38. Any person claiming a lien under this Chapter may enforce the same by means of the proceedings hereinafter set forth.

39. No writ of summons shall be necessary, but the claimant may file a statement of claim with the Judge.

40. Such statement of claim shall be verified by affidavit, Form (8); upon the filing of such statement of claim and affidavit the Judge shall issue a certificate in duplicate.

41. Upon the registration of such certificate in the office of the registrar, the action shall be deemed to have been commenced as against the owner and all other parties against whom the lien is claimed.

42. The Judge shall also in and by such certificate appoint a time and place at which he will inquire into the claim of the plaintiff and take all necessary accounts; such certificate and appointment shall be issued in duplicate, and may be in the Form (9) set forth in the Schedule hereto.

43. A copy of such certificate and appointment shall be served on the owner and all other proper parties, at least fifteen days before the day therein named for taking the first proceedings thereunder.

44. Within ten days after the service of such certificate and appointment any person served therewith may file with the Judge a notice in the Form (10) in the schedule hereto disputing the plaintiff's right to a lien.

45. In case a notice disputing the plaintiff's lien is filed, the Judge shall, before taking any further proceedings, determine the question raised by the notice, and if so required by any of the parties, may thereupon issue a certificate of his finding.

46. But if not required to issue such last named certificate, it shall suffice for the judge to enter in his book a note of his finding.

47. Where no notice disputing the plaintiff's lien is filed as aforesaid, and the proceedings are instituted by a sub-contractor, the owner shall file with the Judge a statement of account, Form (11), verified by affidavit, Form (12), showing what, if anything, he admits to be due for the satisfaction of the plaintiff's lien and all other liens of the same class as plaintiff's; such statement shall be filed at least eight days before the day named in the certificate mentioned in section 42 for taking accounts, and in case the owner shall not file such statement, or shall file an untrue statement, he may be ordered by the judge to pay all costs incurred in establishing the true amount due and owing from him.

48. All lien-holders of the same class served with the appointment, or who may claim to be entitled to the benefit of the action, shall also within six days from the day named in the appointment for taking accounts, or within such further time as the Judge may allow, file with the judge a statement of account, showing the just and true sum due to them respectively, after giving credit for all sums in cash, merchandise or otherwise, to which the debtor is entitled to credit on account of their respective claims, which account shall be verified by affidavit, and such account and affidavit may be in the Forms (13) and (14) set out in the Schedule hereto.

49. A lien-holder who has registered his lien, but has not filed his claim with the Judge within the time limited by the next preceding section, may apply to the Judge to be let in to prove his claim at any time before the amount realized by the proceedings for the satisfaction of liens has been distributed, and such application may be granted or refused, and upon such terms as to costs or otherwise as may appear just.

50. Upon the return of the appointment to take accounts, the Judge shall proceed to take an account of what is due from the owner, and also what is due to the respective lien-holders who have duly filed their claims, and shall also tax to them respectively such costs as he may find them entitled to, and shall settle their priorities, and shall make all other inquiries, and take all necessary accounts for the adjustment of the rights of the various parties, and shall thereupon make a report of the result of such inquiries and accounts and shall direct that the money found due by the owner shall be paid into a bank to the credit of the action at the expiration of one month from the date of the report.

51. In case any dispute arises as to the amount due by the owner for the satisfaction of liens under this Chapter, or as to the amount claimed to be due to any of the lien-holders, the costs occasioned by the dispute shall be in the discretion of the Judge, and shall be borne and paid as he directs.



52. If nothing is found due by the owner, the Judge may make an order staying all further proceedings, and make such order as to costs as may be just, and at the expiration of fourteen days thereafter may grant a certificate vacating the lien of the plaintiff, and all other liens of the same class as the plaintiff's.

53. Where anything is found due by the owner he may on, or at any time before the day appointed for payment, pay the amount found to be due by him into a bank named by the Judge to the credit of the action, and thereupon, upon proof of such payment, the Judge may grant *ex parte* a certificate in Form (16) in the Schedule to this Chapter, vacating the lien of the plaintiff, and all other liens of the same class as plaintiff's.

54. The Judge may make such order as to the owner's costs of obtaining and registering any certificate vacating the lien as may be just.

55. Upon the registration of a certificate vacating any lien or liens, the same shall thereupon be vacated and discharged.

56. Upon payment into a bank of the amount which may be found due by the owner, the same shall be (subject to the payment of any costs thereof, as may be ordered), be paid out to the parties found entitled thereto by the report of the Judge.

57. In default of payment by the owner within the time directed by the report, the plaintiff may apply to the said Judge, who, upon due proof of the default, may grant an order or judgment for the sale of the land in question for the satisfaction of the lien of the plaintiff, and other liens of the same class.

58. The judgment for sale may be in Form (15), set forth in the Schedule to this Chapter.

59. Such judgment for sale shall be entered as other judgments are required to be entered in the office of the Clerk of the County Court, and shall have the same force or effect as a judgment in the ordinary case of an action between the said parties.

60. The sale under said judgment shall be conducted by the Sheriff who shall execute a deed to the purchaser, the proceedings on such sale shall be in the manner prescribed by Statute respecting sales of land made under writs of *fieri facias*.

61. After the sale the Sheriff shall pay the proceeds into a bank to the credit of the action and make a report upon the sale to the Judge, who shall thereupon tax the costs of the sale to the party entitled thereto, and shall apportion the money realized among the parties entitled thereto, and may order the moneys realized to be paid out of the bank to the parties so found by him entitled thereto.

62. (1) For the proper proceedings to obtain an order for sale and carrying out of the sale, and the apportionment of the moneys realized thereunder, the plaintiff shall be deemed sufficiently to represent all other lien-holders entitled to the benefit of the action unless the Judge otherwise orders.

(2) Where there are several liens under this Chapter against the same party each class of the lien-holders shall, subject to the provisions of sections 6, 9 and 11, rank *pari passu* for the several amounts, and the proceeds of any sale shall, subject as aforesaid, be distributed amongst them *pro rata* according to their several claims and rights.

(3) The Judge shall have power from time to time to add any parties to the proceedings as he may deem necessary or advisable, and may direct as to service of notices on such new parties.

(4) The death of an owner or any other defendant shall not cause the proceedings to abate, but they may be continued against the personal representatives of such owner or other defendant.

63. Any lien-holder entitled to the benefit of the action may apply for the carriage of the proceedings, and the Judge may thereupon make such order as to costs and otherwise as may be just; and any lien-holder who obtains the carriage of the proceedings shall, in respect of all proceedings taken by him be deemed to be the plaintiff in the action.

64. Any person affected by the proceedings may apply to the Judge to dismiss the same for want of due prosecution, and the Judge may make such order upon the application as to costs or otherwise as may be just.

65. Where any infants are named as defendants the appointments referred to in section 42 may be served upon the official guardian for such infants. If there is no official guardian, the Judge may appoint a guardian *ad litem*. Such official guardian or guardian so appointed shall thereupon become and be the guardian *ad litem* for such infants in the proceedings, and it shall not be necessary to serve any such infant defendant with any further or other proceedings, and such infant shall be bound thereby.

66. The fees and costs in all proceedings taken under this Chapter shall be such as are payable in respect of similar matters according to the ordinary procedure of the County Court, but where the taxed costs of proceedings to enforce any lien are payable out of the amount realized by such proceedings for the satisfaction of the lien, and shall exceed ten per cent. of the amount realized thereby for the satisfaction of the lien, such costs shall be reduced proportionately by the Judge so as the same shall not in the aggregate exceed the said ten per cent, and no more costs than such reduced amount shall be recoverable between party and party or solicitor and client.

(2) In no case shall the costs taxed against any of the parties exceed ten per cent, of the amount in dispute between such party and the party to whom the costs are awarded.

67. After the amount of the lien shall be realized, any lien-holder who has proved a claim may apply to the said Judge, upon notice to his primary debtor, for judgment for the payment of any balance which may remain due after deducting the amount received or payable in respect of the lien, and thereupon the Judge may grant or refuse the application upon such terms as to costs or otherwise as may be just; and in case he sees fit to grant the application he will grant a certificate of the amount for which he finds the applicant is entitled to judgment for debt and costs.

68. Such certificate may be filed in the office of the Clerk of the Court, and the same, whether the amount awarded exceeds the ordinary jurisdiction of the County Court or not shall thereupon be entered in the judgment book and shall thereupon become a judgment of the Court, and may be enforced in like manner as any other judgment for the payment of money is enforced in the said Court.

69. (1) Orders and certificates made by a Judge under this Chapter shall be appealable to the Supreme Court in like manner as any order or decision to County Court Judge in ordinary actions is appealable.

(2) In case of appeal from any such order or certificate, the proceedings upon such order or certificate may be stayed as in ordinary cases.

70. A proceeding under this Chapter shall be deemed to be an action.

71. (1) Any number of lien-holders may joint in one action or proceeding; and any action or proceeding brought by a lien-holder shall be taken to be brought on behalf of all the lien-holders of the same class who have registered their liens before or within fourteen days after the commencement of the action, or who shall within the said fourteen days, or within such further time as may be allowed for that purpose, file with the Judge of the County Court of the county where the proceedings have been brought, a statement, entitled in or referring to the said action, of their respective claims.

(2) Where separate proceedings are instituted by lien-holders, the Judge may consolidate the proceedings and give all such directions as to carrying on the same, after consolidation, as he may deem necessary or desirable.

72. The Judge may on good cause extend the time within which any proceedings are to be taken under this Chapter, upon application made either before or after the time for taking any such proceedings has expired.

73. Any money paid into a bank under this Chapter shall be paid out by the order of the Judge as he may direct.

74. In case the Judge of the County Court in which the land, in respect of which the lien is claimed, is situate, is interested in any proceedings under this Chapter, or related to any of the parties, the proceedings may be taken before any Judge of another County Court, who in so acting shall, for the purpose of such proceedings, be deemed to be Judge of the County Court of the county in which the lands in question are situate.

75. Any affidavit required under this Chapter may be sworn before a justice of the peace or commissioner for taking affidavits.

(Forms and schedules omitted.)

### Woodmen's Liens.

Chapter 148.—1. This Chapter may be cited as "The Woodmen's Lien Act."

2. Where the following words occur in this Chapter they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

(1) The words "logs or timber" shall mean and include what is ordinarily known as logs or timber, and shall not include cedar posts, telegraph poles, cordwood, railroad ties, tan bark, or shingle bolts or staves.

(2) The words "labour, service or services," shall mean and include cutting, skidding, felling, hauling, scaling, barking, driving, rafting or booming any logs or timber, and any work done by cooks, blacksmiths, artisans or others, used or employed in connection therewith.

(3) The words "place of destination" shall mean the boom or rafting ground where the logs are rafted or sorted, in case of logs or timber driven down rivers or streams; and the mill or mill pond, in cases where the logs or timber are hauled from the woods or brought by railway to a mill or to the pond in connection therewith, or driven in the stream to a mill or mill pond, without first being rafted or sorted, or other place where logs or lumber are brought or hauled for the purpose of being manufactured or sawn.

3. Any person performing any labour or services in connection with any logs or timber intended to be driven down rivers or streams, or hauled directly from the woods or brought by railway to the place of destination, shall have a lien thereon for the amount due for such labour, service or services, and the same shall be deemed a

first lien or charge on such logs or timber, and shall have precedence over all other claims or liens thereon, except any lien or claim which the Crown may have upon such logs or timber, for or in respect of any dues or charges, or which any owner of lands may have for the stumpage upon such logs or timber, or which any streams' improvement company or boom company, or person owning streams' improvements or booms may have thereon for or in respect of tolls.

4. The lien provided for in section 3 shall not attach or remain a charge on the logs or timber, unless and until a statement thereof in writing, duly verified upon oath by the person claiming such lien, or some one duly authorized on his behalf, shall be filed in the office of the Clerk of the County Court in which the labour or services, or some part thereof, have been performed.

5. Such statement shall set out briefly the nature of the debt, demand or claim, the amount due to the claimant, as near as may be, over and above all legal set-offs or counter claims, and a description of the logs or timber upon or against which the lien is claimed, and may be in the Form (1) set out in the schedule to this Chapter, or to the like effect.

6. The statement of claim shall, in respect of work done in the woods, be filed within thirty days after the last day on which such labour or services were performed, and in respect to work done in stream driving or otherwise than in the woods, within twenty days after the last day on which such labour or services were performed; provided that no sale or transfer of the logs or timber upon which a lien is claimed under this Chapter during the time limited for the filing of such statement of claim and previous to the filing thereof, or after the filing thereof, and during the time limited for the enforcement thereof, shall in anywise affect such lien, but such lien shall remain and be in force against such logs or timber in whosoever possession the same shall be found.

7. In case of the transfer by sale or chattel mortgage of any logs or timber which may become subject to a lien under this Chapter, the purchaser, before paying his purchase money or giving a mortgage or other security for any balance of such purchase money, or the mortgagee, before advancing any money on the security of a chattel mortgage or otherwise, may require from the vendor, in the case of a sale or from the mortgagor in the case of a mortgage, an affidavit or statutory declaration by such vendor or mortgagor (as the case may be), or his agent, stating that all claims for wages to the persons mentioned in section 3 of this Chapter have been paid.

8. Any person or persons having a lien upon or against any logs or timber may enforce the same by means of the proceedings hereinafter stated.

9. Without issuing a writ of summons, the claimant may apply to a Judge of the County Court of the county in which the logs or timber may be, and upon the production to the Judge of an affidavit verifying his claim and showing that the same has been filed as aforesaid, also stating the particulars of the claim, and showing that the claimant has fully performed his contract, and that the amount is justly due and owing to him, and that payment thereof has been demanded and refused, the Judge may thereupon, if he thinks it in the interest of justice to do so, make an order under his hand, directing that a writ of attachment may issue to the Sheriff of such county, commanding such Sheriff to attach, seize, take and safely keep such logs or timber; whereupon a writ of attachment may issue out of the County Court, which shall be in the Form (2) in the Schedule to this Chapter, or to the like effect.

10. Upon the delivery of the said writ of attachment to the Sheriff, he shall act thereon according to the exigency of the said writ.

11. (1) A copy of the said writ of attachment shall be served upon the defendant, and if the defendant therein named is not the owner of the logs or timber described in the writ, then a copy of the writ shall also be served upon the owner of the said logs or timber, or upon the person or agent in whose possession, custody or control they may be found.

(2) A copy of the claim filed with the Clerk as aforesaid shall be attached to the copy of the writ of attachment and served with it.

(3) When the defendant or owner of the logs or timber cannot be found within the county, and there is no one in possession of the logs or timber, then a copy of the writ of attachment shall be forwarded to the Sheriff of any county within whose shrievalty the defendant or owner, or either of them, as the case may be, resides or may be found, and such copy of the writ of attachment may be served by such Sheriff upon such defendant or owner of the logs or timber. The owner may, on his own application or by direction of the Judge, be made a party defendant at the hearing.

(4) In case the defendant or owner cannot be found within the Province, or the owner cannot be ascertained, and no agent or person is in possession for the owner, the writ of attachment may be served in such manner as the Judge shall by order direct; but when the writ is served upon an agent or other person in possession as aforesaid, the order of the Judge allowing the said service shall be necessary.

(5) Where the service has not been personal upon either the defendant or owner, and where the proper defence has not been made, the Judge may at any time before the close of the proceedings in his discretion admit them, or either of them, to make full defence, and may make such order in the premises as may be reasonable and just to all parties.

(6) The Sheriff shall, before making any service, be entitled to demand the payment of a sum sufficient to cover the amount of his necessary disbursements in making the same.

12. (1) No sheriff shall seize upon or detain any logs or timber under the provisions of this Chapter when in transit from the place where cut to the place of destination; but in case such logs and timber are so in transit, or are in possession of any boom company or other person or corporation for the purpose of being driven or sorted and delivered to the owners, or to satisfy any statutory lien, then attachment of said logs or timber may be made by serving a copy of said attachment upon the person or corporation driving or holding the same, who shall from the time of such service be deemed to hold the same both on their own behalf and for the said Sheriff to the extent of the lien until the logs or timber can be driven or sorted out, and when driven or sorted out lien until the logs or timber can be driven or sorted out, and when driven or sorted out statutory lien of such person or corporation shall not be released by the holding of such Sheriff.

(2) The claimant or plaintiff in any suit and the Sheriff shall, when necessary, be entitled under order of the Judge to take any proceedings which the owner of any logs may take for the purpose of procuring the separation of any logs so seized by the Sheriff under this Chapter, from other logs with which they have become intermixed, or a sale may be made without such separation if the Judge so directs.

13. (1) The owner of said logs or timber, or any person on his behalf having a knowledge of the facts, may make and file with the Clerk of the court out of which the attachment issued an affidavit stating what amount is due to persons entitled to a lien against the said logs in addition to the claim of the plaintiff, and such owner or person on his behalf may thereupon execute and file with such Clerk a good and sufficient bond to the Sheriff, executed by himself and two sureties to be approved by the said Clerk and conditioned for the payment of all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings, together with the amount for which other lien-holders stated in such affidavit, may have a lien; and thereupon the Clerk shall issue an order to the Sheriff having in charge the logs or timber, directing their release, and upon service of such order upon the Sheriff he shall release the same.

(2) Any lien-holder or lien-holders entitled to the benefit of the said bond may obtain an order from the Judge, entitling him or them to bring an action or actions thereon in his or their name, and upon such order being made, such person or persons may sue upon the said bond in his or their name; such bond shall be retained by the Sheriff, subject to any order which the Judge may make in respect thereof.

(3) Such bond may be in the Form (3) in the schedule to this Chapter, or to the like effect.

14. (1) The defendant or owner may, at any time after the service of the writ of attachment, and before the sale of the logs or timber, pay into a bank to be designated by the Judge, the amount for which a lien is claimed in the suit, together with the additional amount specified in the affidavit mentioned in section 13, and likewise the amount for which a lien is claimed against the said logs or timber in any other suit, (if any), together with the costs of the proceedings thereon to the date of such payment, taxed by the clerk of the court, if so required, and the person making such payment shall thereupon be entitled to a certificate from the Judge vacating the said liens, and upon the said certificate being filed with the Clerk of the court in which the original statement of claim was filed, the said lien shall be vacated, and all further proceedings thereon shall cease, and the person making such payment shall be further entitled to an order of the Judge, directing the delivering up of the logs or timber seized under the attachment or the cancellation of any bond given under section 13 of this Chapter.

(2) When the amount has been paid into a bank under the preceding sub-section, the Judge may, on such notice as he may think desirable or necessary to all parties interested, either by advertisement in the Royal Gazette or otherwise, apportion the said amount among the various holders of liens against said logs or timber, and may by order direct that such amount be paid out of the bank by check of the Clerk of the court to the various parties entitled thereto.

15. (1) After the said writ of attachment has been returned the Judge shall, upon the application of the claimant, which application shall be made within ten days after such return, unless the time shall be extended by the Judge, issue an appointment naming a day upon which all persons claiming a lien on the logs or timber shall appear before the judge in person, or by their solicitor or agent, for the adjustment of their claims and the settlement of accounts, and the said appointment shall be served upon the

defendant and upon the owner, if the Judge so directs, and shall also, if the Judge so directs, be published once a week for two weeks before the day named in such appointment in the Royal Gazette.

(2) Provided further that a copy of such appointment shall be mailed by registered letter to every holder of a claim known to the plaintiff as such holder, at least two weeks before the day named in such appointment, directed to the post office address of such claimant where the same is known, and if not known, then to his last known address.

16. (1) Upon the day named in the said appointment and advertisement, the person served with a copy thereof, and all other persons claiming a lien on the said logs or timber, who have prior to the said date, filed with the Clerk of the court, a notice claiming such lien on the said logs or timber, and stating the nature and amount of such claim, shall attend before the Judge named in the appointment and advertisement.

(2) When claims are brought in pursuant to notice, they may be established *prima facie* by affidavit, but any parties interested shall be at liberty to cross-examine the deponent and may require that the claim be established by *viva voce* evidence.

17. The Judge shall hear all parties and take all accounts necessary to determine the amount (if any) due to them, or any of them, or any other holders of liens who may be called by the Judge to prove their claim, and shall tax to them their costs, and determine by whom the same be payable and settle their priorities, and shall determine all such matters as may be necessary for the adjustment of the rights of the several parties.

18. At the conclusion of the inquiry, the Judge shall make his report and order, which shall state his finding and direct the payment into a bank, to be specified by him, of the amounts (if any) so found to be due, and the costs, within ten days thereafter; and in default of such payment, that the logs or timber shall be sold by the Sheriff for the satisfaction of the amount found due to the several parties upon the inquiry.

19. (1) In default of payment into a bank under the preceding section within the time named in the order therefor, the said logs or timber shall within twenty days thereafter, be sold by the Sheriff holding the same, in the same manner and subject to the same provisions of law as goods seized or taken under execution, unless the Judge shall direct that additional publicity be given to the sale, and the amount realized by such sale shall, after deducting the expenses thereof payable to the Sheriff, be paid into a bank to the credit of the cause, and shall upon the application of the several parties found to be entitled thereto under the order of the Judge, be paid out to them by the Clerk of the said Court by check drawn upon the said bank to the orders of the parties entitled thereto respectively;

(2) Provided that where the amount realized upon the sale shall not be sufficient to pay the claims in full and the costs, the Judge shall apportion the amount realized *pro rata* among the different claimants. If, after such sale and distribution of the proceeds thereof under the preceding section, any balance shall remain due to any person under the said order of the Judge, the Judge shall, upon the application of such person, give to him a certificate that such amount remains due, which certificate may be entered as a judgment in such County Court whether the amount is within the ordinary jurisdiction of the County Court or not, against the person or persons by whom the claim was directed to be paid, and execution may be issued thereupon as in the case of other judgments in the said court.

20. (1) Where nothing shall be found due upon the several claims filed under section 16 of this Chapter, or upon the lien or liens with respect to which proceedings have been taken, the Judge may direct by his said order, that the lien or liens be discharged, and the logs or timber released or security given therefor delivered up and cancelled, and shall also by such order direct payment forthwith of any costs which may be found due to the defendant or the owner of the said logs or timber;

(2) Such costs may be recovered by attachment.

21. Where more money shall be paid into a bank to the credit of a cause, as hereinbefore provided for than shall be required to satisfy the liens which shall be proved, and interest and costs, the Judge may order the payment out of the bank of any remaining moneys to the party entitled to the same.

22. (1) Any person affected by proceedings taken under this Chapter, may apply to the Judge to dismiss the same for want of due prosecution, and the Judge may make such order upon the application as to costs or otherwise as may be just.

(2) The Judge may at any stage of such proceedings, on application of any party, or as he may see fit, order that any person or corporation who may be deemed a necessary party to any such proceeding, be added as a party thereto, or be served with any process or notice provided by this Chapter, and the Judge may make such order as to the costs of adding such person or corporation, or as to such service as he may deem proper.

23. Any number of lien-holders may join in taking proceedings under this Chapter, but the statement of claim to be filed under section 4 shall include particular statements of the several claims of persons so joining, and shall be verified by the affidavit of such persons so joining, or of some one having a knowledge of the facts on their behalf, or separate statements of claim may be filed and verified as by this chapter provided, and one attachment issue on behalf of all the persons so joining.

24. When separate proceedings have been commenced under this Chapter against the same logs or timber, or any part of them, any Judge before whom any of the proceedings are pending may consolidate the proceedings, and may give such directions as may seem advisable or necessary in reference to the proceedings after consolidation.

25. No lien under this Chapter shall be held to be waived or discharged merely by the taking of a note or due-bill from the person liable for the debt in respect of which the lien is claimed, or from the owner of the lumber or any person acting on his behalf, until such note or due-bill has been paid, except that partial payment upon such note or due-bill shall be deemed a discharge of the lien *pro tanto*; provided, however, that if a note or due-bill given for such debt shall have passed into the hands of a third party, the Judge may order that such amount as may be found due shall be paid to the holder of the note or due-bill to the extent thereof.

26. (1) When taxed costs, exclusive of necessary disbursements by the Sheriff and Clerk's fees, and necessary witness fees, according to the scale of fees in the County Court, of the proceedings to enforce any lien under this Chapter, which are payable out of the amount realized by the proceedings for the satisfaction of the lien, shall exceed ten per cent of the amount so realized, such costs, upon application of any party to the proceedings interested in the payment thereof, shall be reduced by the Judge, so that the same shall not in the aggregate exceed the said ten per cent. and no more costs than such reduced amount shall be recovered between party and party or solicitor and client.

(2) The costs outside of Sheriff's fees and Clerk's fees, and necessary witness fees which may be taxed to any claimant proving a claim under this Chapter, shall not exceed ten per cent of the amount of his claim.

(3) Subject to the provisions of sub-sections (1) and (2) of this section, when not otherwise provided herein, the costs to be taxed to any party shall, as far as possible, be according to the tariff of fees in force as to other proceedings in the County Court.

(4) The following shall be allowed to the Clerk in lieu of all other fees under this Chapter:—

|  |        |
|--|--------|
| For filing all papers in connection with any one claim or lien.....          | \$0 20 |
| For filing each additional claim in connection with the one proceeding ..... | 0 10   |
| For signing and sealing writ of attachment .....                             | 0 20   |
| For filing all judgment papers.....  | 0 40   |

27. (1) Any decree or order made by a Judge under this Chapter shall be subject to appeal in the same manner and subject to the same provisions as respects the decision of a Judge of a County Court in other cases.

(2) Upon such appeal being taken the Judge may stay the proceedings pending the appeal as in other cases of appeal in the County Court.

28. Any affidavit required under this Chapter, may be sworn before a Judge of a County Court, commissioner for taking affidavits or justice of the peace.

(Forms and schedules omitted.)

### Wages as Preferred Claims—In Assignments, Liquidations, Executions, etc.

Chapter 149.—1. Whenever an assignment is made of any real or personal property for the general benefit of creditors (whether such assignment contains preferences or not), the assignee shall pay in priority to the claim of the ordinary or general creditors (and likewise other preferred creditors) of the person making the same, the wages or salary of all persons in the employment of such person at the time of the making of the assignment, or within one month before the making thereof, not exceeding three months' wages or salary, and such persons shall be entitled to rank as ordinary or general creditors for the residue (if any) of their claims.

2. In distributing the assets of a company under the provisions of The Companies Winding-up Act, Chapter 90 of these Consolidated Statutes, the curator shall pay in priority to the claims of the ordinary or general creditors of the company, the wages or salary of all persons in the employment of the company at the time of the making of the winding-up order, or within one month before the making thereof, not exceeding three months' wages or salary, and such persons shall be entitled to rank as ordinary or general creditors of the company for the residue (if any) of their claims.

3. In distributing the assets of any deceased person, the executor or administrator shall pay in priority to the claims of the ordinary or general creditors of the deceased



the wages or salary of all persons in the employment of the deceased at the time of his death, or within one month prior thereto, not exceeding three months' wages or salary, and such persons shall be entitled to rank as ordinary or general creditors of the estate for the residue (if any) of their claims.

4. All persons in the employment of an execution debtor at the time of the seizure by the Sheriff of property of the debtor, or within one month prior thereto, shall be entitled to be paid by such Sheriff out of the moneys realized on such execution the wages or salary due to them by the execution debtor, not exceeding three months' wages or salary, in priority to the claim of the execution creditor, and such persons shall be entitled to recover from the debtor the balance (if any) of their claims; provided that before the Sheriff pays over the moneys realized on such sale, the person claiming the benefit of this section file with the Sheriff a statement of his claim verified by affidavit made before a commissioner for taking affidavits or a justice of the peace. In case such claim is filed with the Sheriff he may, if he has not already levied for sufficient to satisfy the claim of the execution creditor, and also the said claim of such wage-earner, make a further levy to an amount sufficient for the purpose, either before or after the return day named in the execution, and may proceed thereon in all respects as if he had made such additional levy at the time of the original levy. If any dispute arises as to the correctness of any such claim, or the Sheriff, for his own protection, thinks proper to do so, he may apply to the Judge of the County Court upon petition, stating the facts as to the moneys in his hands and the claim filed, and obtain a summons calling upon the debtor and claimant to appear before the Judge at a time and place to be named in such summons, and the Judge, upon hearing the parties, or such of them as appear at the return of the summons, may make an order disallowing the claim, or allowing it in whole or in part, and may make such order therein as justice may require, and the Sheriff's obedience to such order shall be a defence to him in any proceedings which the claimant or debtor may bring against him in respect of any sum which he may pay in accordance with such order.

5. Any person in the employment of an absconding, concealed or absent debtor, at the time of a seizure by the Sheriff, under Chapter 135 of these Consolidated Statutes, respecting absconding, concealed or absent debtors, or within one month prior thereto, shall be entitled to be paid out of any moneys realized out of the property of such debtor, by such Sheriff, the wages or salary due to him by the absconding, concealed or absent debtor, not exceeding three months' wages or salary, in priority to the claims of the other creditors of the absconding, concealed or absent debtor, and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of his claim.

6. Where a mortgage to secure debentures issued by any railway company is hereafter foreclosed, and the railway sold, or the railway is hereafter sold under power of sale in any mortgage, the Referee or mortgagee shall, out of the proceeds of the sale, after payment of the costs of the foreclosure suit, or if the sale is made under power of sale, pay the wages or salary of all persons employed in the operation of the railway at the time of the commencement of the foreclosure proceedings, or proceedings for sale, or within one month previous thereto (not exceeding three months' wages or salary) in priority to the claims of bond-holders or other creditors, save only employees engaged by the receiver, in case a receiver is appointed, or by the mortgagee in operating the railway.

7. This Chapter is not intended to apply to an assignment made under the provisions of any Act of the Parliament of Canada relating to or respecting bankruptcy or insolvency.

## STATUTES OF 1904.

### Bureau of Labour.

Chapter 17 with amendment.—1. There shall be attached to the Department of the Provincial Secretary, or such other existing head of Department as the Lieutenant-Governor in Council shall designate, a bureau to be styled the "Bureau of Labour."

2. The Lieutenant-Governor in Council may appoint a secretary of the said bureau.

3. It shall be the object of the bureau to collect, assort and systematize and publish information and statistics relating to employment, wages and hours of labour throughout the province, co-operation, strikes, or other labour difficulties, trades unions, labour organizations, the relations between labour and capital, and other subjects of interest to working men and working women, with such information relating to the commercial, industrial and sanitary condition of working men and working women, and the permanent prosperity of the industries of the province as the bureau may be able to gather.

4. (1) The head of such department to which the Bureau of Labour is attached, shall be known as the "Commissioner of Labour."



(2) Such Commissioner of Labour may appoint at such time or times as he deems it desirable, agents in the industrial centres of the province, whose duty will be to assist in getting statistical information, to consult with employers and employees in order to prevent or settle lockouts and strikes, and to confer with factory inspectors as to their duties and the making up of their semi-annual reports. 1910, c. 35.

## STATUTES OF 1905.

### Inspection and Regulation of Factories—Examination and Licensing of Engineers.

Chapter 7 with amendments.—1. This Act shall be known as "The New Brunswick Factories Act, 1905."

#### Interpretation.

2. (1) In this Act, unless inconsistent with the context, "Health Officer" means the officer appointed under the Public Health Act.

(2) "Factory" means:

(a) Any building, office or place in which ten or more persons are employed, directly or indirectly in any handicraft or in preparing or manufacturing goods for trade or sale, but does not include any building in course of erection, or any temporary workshop or shed for workmen engaged in the erection of such building, but whatever the number of persons employed therein includes;

(b) Every bake-house (meaning thereby any building or place in which any article of food is baked for sale for human consumption) and also

(c) Any building or place in which steam, water or any mechanical power or appliance is used for the purpose of preparing, manufacturing or bottling goods for trade or sale, or packing such goods for transit; and also

(d) Every laundry (meaning thereby every building or place where laundry work is performed for hire or reward) whether the persons employed therein receive payment or not; provided, that none of the provisions of this Act shall be held to apply to lobster and fish canning establishments or fruit canning establishments outside of cities and towns.

(3) "Inspector" shall mean any one of the inspectors appointed by order of the Lieutenant-Governor in Council under the authority and for enforcing the provisions of this Act.

(4) "Employer" shall mean any person who, in his own behalf, or as manager, superintendent, overseer or agent for any person, firm, company or corporation, has charge of any factory and employs persons therein.

(5) "Week" shall mean the period between midnight on Sunday night and midnight on the succeeding Saturday night.

(6) "Child" shall mean a person under the age of fourteen years.

(7) "Young girl" shall mean a girl above the age of 14 years and under the age of 18 years.

(8) "Woman" shall mean a woman of 18 years and upwards.

(9) "Parent" shall mean the parent or guardian of, or a person having the legal custody of, or control over, or having direct benefit of the wages of a young girl or boy.

(10) "Court of Summary Jurisdiction" shall mean the Justice of the Peace or Police Magistrate, as the case may be, to whom jurisdiction is given by this Act to hear and determine prosecutions under this Act.

(11) "Mill-gearing" shall comprehend every shaft, whether upright, oblique or horizontal, and every wheel, drum or pulley by which the motion of the first moving power is communicated to any machine appertaining to the manufacturing process.

3. No child shall be employed in any factory, except in special cases authorized in writing by the Inspector.

4. The Lieutenant-Governor in Council may, from time to time, by Order in Council, notice of which shall be published in the Royal Gazette, prohibit the employment of girls under the age of 18 and boys under the age of 16, in factories the work of which is deemed by the Lieutenant-Governor in Council to be dangerous or unwholesome.

5. To employ in a factory any young girl or woman shall be deemed to be unlawful, and so that the health of such young girl or woman is likely to be permanently injured, if, in that factory there is a contravention of the following provisions of this section, that is to say:

(a) It shall not be lawful for a young girl or woman to be employed for more than ten hours in one day, nor more than sixty hours in one week, unless a different apportionment of the hours of labour per day has been made for the purpose of giving a shorter day's work on Saturday.

(b) In every factory the employer shall allow every young girl and woman therein employed not less than one hour at noon each day for meals, but such hour shall not be counted as part of the time herein limited as respects the employment of young girls and women.

6. Where any young girl or woman is employed on any day to a later hour than seven o'clock in the afternoon, she shall on every such day, and in addition to the hour for the noon day meal hereinbefore provided for, be allowed not less than forty-five minutes for another or evening meal between five and eight of the clock in the afternoon.

7. (1) Subject to any regulations which may be made in that behalf by the Lieutenant Governor in Council, it shall be lawful for the Inspector:—

(a) Where any accident which prevents the work of any factory happens to the working power of any machinery; or

(b) Where from any other occurrence beyond the control of the employer, the machinery or any part of the machinery of any factory cannot be regularly worked; or

(c) Where custom or exigencies require that young girls or women working in a factory, or in certain processes in a factory, shall be employed for a longer period than as hereinbefore provided:

On due proof to his satisfaction of such accident, occurrence, custom or exigency of trade, to give permission of such exemption of the foregoing provisions of this Act as will in his judgment fairly and equitably to the proprietors thereof, and to the women and young girls in such factory, make up for any loss of labour from such accident or exigency of trade.

(2) In case of the Inspector permitting such exemption:—

(a) No woman or young girl shall be employed before the hour of six o'clock in the morning, or after the hour of ten thirty o'clock in the evening; and

(b) The hours of labour for women and young girls shall not be more than thirteen and one-half in any one day, nor more than eighty-one in any one week; and

(c) Such exemption shall not comprise more than thirty-six days in any twelve months, and in reckoning such period of thirty-six days, every day on which any young girl or woman has been employed overtime shall be taken into account.

8. When under the exemptions allowed herein, any young girl or woman is employed at any factory on any day for a longer period than is allowed herein, the duration of such employment shall be daily recorded by the employer in a register, which shall be in such form as may be required by any regulations made by the Lieutenant-Governor in Council.

9. Notice of the hours between which young girls or women are to be employed shall be made in such form as may be required by the regulations made in that behalf by the Lieutenant-Governor in Council, and shall be signed by the Inspector and by the employer, and shall be hung up during the period affected by such notice in such conspicuous place or places in the factory as the Inspector requires.

10. (1) No employee shall be allowed to clean such part of the machinery in a factory as is mill-gearing while the same is in motion for the purpose of propelling any part of the manufacturing machinery.

(2) A young girl or woman shall not be allowed to work between the fixed and traversing part of any self-acting machine while the machine is in motion by the action of steam, water or other mechanical power.

(3) A young girl or woman allowed by an employer to clean or to work in contravention of this section shall be deemed to be employed by him contrary to the provisions of this Act, and shall be deemed to have thereby contravened this provision.

11. (1) Every factory shall be kept in a cleanly state, and free from effluvia of any drain, privy or other nuisance.

(2) A factory shall not be so overcrowded while work is carried on therein as to be injurious to the health of the persons employed therein, but shall contain 300 cubic feet of air space to each employee.

(3) Every factory shall be ventilated in such a manner as to render harmless, so far as is reasonably practicable, gases, vapors, dust or other impurities generated in the course of the manufacturing process or handicraft carried on therein, that may be injurious to health.

(4) In every factory there shall be kept provided a sufficient number and description of privies, earth or water closets and urinals for the employees of such factory; such closets and urinals shall at all times be kept clean and well ventilated, and a separate set thereof shall be provided for the use of male and female employees, and shall have respectively separate approaches.

(5) A factory in which there is a contravention of this section or of the regulations made for the enforcement of this section shall be deemed to be kept unlawfully, and so that the health of any person employed therein is likely to be permanently injured, and the employer shall, because thereof, be deemed to be guilty of a contravention of the provisions of this Act.

12. (1) In every factory where, contrary to the provisions of this Act, there is any omission, act, neglect or default in relation to any overcrowding, ventilation, drain, privy, earth closet or water closet, ash pit, water supply, nuisance or other matter, whereby the health of the persons employed in the factory may be affected, the employer

shall, within a reasonable time, take such action thereon as the Inspector, acting under regulations, if any, made in respect to such subjects, notifies the employer to be proper and necessary.

(2) In every factory where any process is carried on by which dust is generated and inhaled by the workers to any injurious extent, if such inhalation can, by mechanical means, be prevented or partially prevented, the Inspector may, subject to such regulations, if any, as may be made in that behalf, direct that such means shall be provided within a reasonable time by the employer, who, in such cases, shall be bound to provide them.

(3) A factory in which the provisions of this section are not complied with by the employer shall be deemed to be kept unlawfully, and so that the health of any person therein employed is likely to be permanently injured, and such employer shall, because thereof, be deemed to be guilty of a contravention of the provisions of this Act.

13. Where two or more persons occupy or use the same room or premises for carrying on any work or business within the meaning of this Act, and employ in the aggregate ten persons or more, no one of such persons employing so many as ten each, all the several employers shall be held responsible for providing proper and sufficient water closets and the other requirements set forth in sections 11 and 12 of this Act, which said sections shall apply to each and every such employers as if they were partners in all the work or business of the said room or premises.

14. The Inspector may, for the purposes of the next three preceding sections, take with him into any factory a physician, health officer or other officer of the local sanitary authority.

15. (1) It shall not be lawful to have a stable under the same roof as a factory for food products unless there is between the stable and factory a sufficient brick or other partition wall, approved by the Inspector, separating the one from the other.

(2) If any person employed in or in connection with any factory in the manufacturing, bottling, handling or delivering of any bread, tea, fruit, spices, meat, liquors, confectionery or other article of human consumption, is in a state of health which in the opinion of the Inspector is likely to convey germs of disease or other contamination to any of the said articles, the Inspector shall forthwith report the same to the district health officer.

(3) All occupiers of bake-houses and factories for food products shall provide suitable lavatories, towels and soap for the use of the employees.

16. (1) In every factory:—

(a) All dangerous parts of mill-gearing, machinery, vats, pans, cauldrons, reservoirs, wheels, flumes, water channels, doors, openings in the floors or walls, bridges and other like dangerous structures or places shall be, as far as practicable, securely guarded.

(b) No machinery, other than steam engines, shall be cleaned while in motion, if the Inspector so directs by written notice.

(c) The openings of every hoistway, hatchway, elevator or well hole shall be at every floor, provided with and protected by good and sufficient trap doors or self closing hatches and safety catches, or by such other safeguards as the Inspector directs, and such trap doors shall be kept closed at all times, except when in actual use by persons authorized by the employer to use the same.

(d) All elevator cabs or cars, whether used for freight or passengers, shall be provided with some suitable mechanical device to be approved by the Inspector, whereby the cab or car shall be securely held in the event of accident to the rope or hoisting machinery or the like, except such elevators as are used for freight only.

(e) No child shall be employed in the management or control of any elevator.

(f) Any other conditions which any Inspector from time to time considers dangerous, and in regard to which he gives notice to that effect to the employer, shall likewise, as far as practicable, be securely guarded against.

(g) Inflammable material, such as coal oil or petroleum, benzine and naphtha, and explosives of all kinds, shall be kept stored when not in actual use in a building separate from the other parts of the factory, or in a fireproof compartment of the factory approved by the Inspector.

(h) No boiler shall be used which is not insured in some Boiler Inspection company, duly authorized in the province for that purpose, or which has not been inspected within one year by a competent inspector; such inspector to be an inspector usually employed by a Boiler Inspection company, or a marine engineer holding a first or second class certificate, or a competent boilermaker whose qualifications shall be certified by the Factory Inspector. No such inspector shall be in personal charge of any boiler inspected by him. The manager or proprietor of any factory shall, whenever so requested by the inspector, produce for examination the insurance policy or the certificate of inspection. 1915, c. 57, s. 1.

(2) A factory in which there is a contravention of this section, or of the regulations made for the enforcement of this section, shall be deemed to be kept unlawfully, and so that the safety of any person employed therein is in danger.

17. (1) In every factory:—

(a) There shall be such means of extinguishing fire as the Inspector, acting under the regulations made in that behalf, directs in writing.

(b) In all factories of more than one story, the doors shall open outwards, provided, however, that the Inspector may permit sliding doors for the purpose of taking goods in and out of the factory.

(c) Any door leading to or being the principal or main entrance to the factory, or to any tower, stairway or fire escape therein or belonging thereto, shall not be bolted, barred or locked at any time during the ordinary and usual working hours of the factory.

(2) The owner of every factory over two stories in height, and where deemed necessary by the Inspector, the owner of every factory over one story in height, shall, within six months of the time of the passing of this Act, provide the said factory with one or more systems of fire escapes as follows:

(a) A sufficient number of tower stairways with iron doorways within reach of or having easy communication with all the working rooms of the factory; or

(b) A sufficient number of iron or other inflammable fire escapes on the outside of the building, such fire escapes to consist of stairways with railings or iron ladders to be connected with the interior of the building by iron or tinned doors or windows, with iron shutters, and to have suitable landings at every story, including the attic, if the attic is occupied as a workroom, and the said stairways to start at a distance of not more than eight feet from the ground or pavement; or

(c) Any other system of fire escape that may be sanctioned under this Act by the Factories Inspector.

(3) The owner or proprietor of any factory refusing or neglecting to provide the means of safe exit in case of fire prescribed by the Inspector shall, upon conviction thereof, incur and be liable to a fine of not more than \$500 with costs of prosecution, and in default of immediate payment of such fine and costs be liable to imprisonment within the common gaol of the county for a period of not more than twelve months.

18. In case of a fire or accident in any factory occasioning any bodily injury to any person employed therein, whereby he is prevented from working more than six days next after the fire or accident, a notice shall be sent to the Inspector in writing by the employer forthwith after the expiration of said six days, and if such notice is not so sent the employer shall be liable to a fine not exceeding \$25.

19. In case of an explosion occurring in a factory, whether any person is injured thereby or not, the fact of such explosion having occurred shall be reported to the Inspector in writing by the employer within twenty-four hours next after the explosion takes place, and if such notice is not so sent the employer shall be liable to a fine not exceeding \$25.

20. Where, in a factory any person is killed from any cause, or is injured from any cause in a manner likely to prove fatal, written notice of the accident shall be sent to the Inspector within twenty-four hours after the occurrence thereof, and if such notice is not so sent the employer shall be liable to a fine not exceeding \$25.

21. The provisions of this Act which relate:

(a) To the cleanliness or the freedom from effluvia, or to the overcrowding or ventilation of a factory;

(b) To young girls and women being, during any part of the times allowed for meals in a factory, employed in the factory, or being allowed to remain in any room;

(c) To the affixing of any notice or abstract in a factory, or specifying any matters in the notice so affixed, save and except where said notice is a notice of the name and address of the Inspector;

(d) To the sending of notice of accidents;

Shall not apply where persons are employed at home, that is to say, to a private house, room or place which, though used as a dwelling, might, by reason of the work carried on therein be a factory within the meaning of this Act, and in which neither steam, water nor other mechanical power is used, and in which the only persons employed are members of the same family dwelling there.

22. Nothing in this Act shall extend to any person being a mechanic, artisan or labourer working only in repairing the machinery in, or any part of, a factory.

23. The Lieutenant-Governor in Council may, from time to time, for the purpose of carrying out this Act:

(1) Make such rules, regulations and orders for enforcing its provisions and for the conduct and duties of the Inspector as may be deemed necessary.

(2) Appoint one or more Inspectors, who shall be paid such salary or compensation as from time to time may be appropriated by the Legislature. Provided, however, that

no person shall hold or be continued in the position of inspector after he has reached the age of seventy years. 1909, c. 42, s. 1.

24. The Lieutenant-Governor in Council may, from time to time, appoint a female Inspector for the purpose of carrying out this Act in addition to other Inspectors provided for by this Act.

25. The Inspector shall, for the purposes of the execution of this Act and for the enforcing of the regulations made under the authority hereof, have power to do all or any of the following things, namely:

(a) To enter, inspect and examine at all reasonable times, by day or night, any factory and any part thereof, when he has reasonable cause to believe that any persons are employed therein, and to enter by day any place which he has reasonable cause to believe to be a factory.

(b) To require the production of any register, certificate or document required by this Act to be kept, and to inspect, examine and keep a copy of the same.

(c) To take with him, in every case, a constable into a factory in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty.

(d) To make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are complied with, so far as respects the factory and the persons employed therein.

(e) To examine, either alone, or in the presence of any other person as he thinks fit with respect to matters under this Act, every person whom he finds in a factory, or whom he has reasonable cause to believe to be or to have been within the two preceding months employed in a factory, and to require such person to be so examined and to sign a declaration of the truth of the matter of which he is so examined.

(f) For the purposes of any investigation, inquiry or examination made by him under the authority of this Act, to administer an oath to and to summon any person to give evidence.

(g) To exercise such other powers as may be necessary for carrying this Act into effect.

(2) The employer and his agents and servants shall furnish the means required by the Inspector as necessary, for an entry, inspection, examination or inquiry, or the exercise of his power under this Act in relation to such factory.

(3) Every person who wilfully delays the Inspector in the exercise of any power under this section, or who fails or refuses to comply with the summons of the Inspector in pursuance of this section, or to produce any certificate or document which he is required by or in pursuance of this Act to produce, or who conceals or prevents a child, young girl or woman from appearing before or being examined by the Inspector, or attempts so to conceal or prevent a child, young girl or woman, shall be deemed to obstruct an Inspector in the execution of his duties under this Act; but no one shall be required under this section to answer any questions or to give any evidence tending to criminate himself.

(4) Where the Inspector is obstructed in the execution of his duties under this Act, the person so obstructing him shall be liable to a fine not exceeding \$30, and where an Inspector is so obstructed in a factory, the employer shall be liable to a fine not exceeding \$30, or where the offence is committed at night, \$100.

26. (1) The Inspector before entering, in pursuance of the powers conferred by this Act, without the consent of the occupier, any room or place actually used as a dwelling, as well as for a factory, shall, upon an affidavit or statutory declaration of facts and reasons, obtain written authority to do so from the Lieutenant-Governor in Council, or such warrant as is hereinafter mentioned from a Justice of the Peace or Police Magistrate.

(2) The affidavit or statutory declaration as above mentioned may be inspected or produced in evidence in all respects as an information on oath before a Justice.

(3) A Justice of the Peace or Police Magistrate, if satisfied by information on oath that there is reasonable cause to suppose that any enactment of this Act is contravened in any such room or place as aforesaid may, in his discretion, grant a warrant under his hand, authorizing the Inspector named therein, at any time within the period so named therein, but not exceeding one month from the date thereof, to enter in pursuance of this Act the room or place named in the warrant and exercise therein the powers of inspection and examination conferred by this Act, and the fines and provisions of this Act with respect to obstruction of the Inspector shall apply accordingly.

27. Every Inspector under this Act shall be furnished with a formal certificate of his appointment under the hand and seal of the member of the Executive Council to whom the duty of the administration of this Act may from time to time be assigned, and on applying for admission to a factory shall, if required, produce to the employer the said certificate.

28. Every person shall, within one month after he begins to occupy a factory, serve on the Inspector a written notice containing the name of the factory, the place

where it is situated, the address to which he desires his letters to be addressed, the nature of the work, the nature and amount of the moving power therein, and the name of the firm under which the business of the factory is to be carried on, and in default shall be liable to a fine not exceeding \$25.

29. There shall be affixed at the entrance of a factory and in such other parts thereof as the Inspector directs, and be constantly kept so affixed in the form directed by the Inspector, and in such position as to be easily read by the persons employed in the factory:

(a) Such notices of the provisions of this Act and of any regulations made hereunder as the Inspector deems necessary to enable the persons employed in the factory to become acquainted with their rights, liabilities and duties under this Act.

(b) A notice of the name and address of the Inspector.

(c) Every other notice and document (if any) required by this Act to be affixed in the factory.

In the event of a contravention of any of the provisions or requirements of this section the employer shall be liable to a fine not exceeding \$15.

30. Any notice, order, requisition, summons and document under this Act may be in writing or print, or partly in writing and partly in print.

31. Every person who wilfully makes a false entry in any register, notice, certificate or document required by this Act to be left, or served or sent, or who wilfully makes or signs a false declaration under this Act, or who knowingly makes use of any such entry or declaration shall, upon conviction thereof, be liable to imprisonment in the common gaol of the county wherein the offence was committed for a period not exceeding three months, or to a fine of not more than \$50 with costs of prosecution, and in default of immediate payment of such fine and costs then to imprisonment as aforesaid.

32. The parent of any child or young girl employed in any factory in contravention of this Act shall, unless such employment is without the consent, connivance or wilful default of such parent, be guilty of an offence in contravention of this Act, and shall for each offence pay a fine of not more than \$25 with costs of prosecution, and in default of immediate payment of such fine and costs shall be imprisoned in the common gaol of the county wherein the offence was committed for a period not exceeding two months.

33. If any of the provisions of this Act, or of any regulations, rules or orders made under the authority hereof by the Lieutenant-Governor in Council, are contravened and no penalty is herein provided for such contravention, the employer guilty of such contravention shall, on summary conviction thereof, incur and pay a fine of not more than \$25 with costs of prosecution, and in default of immediate payment of such fine and costs shall be imprisoned in the common gaol of the county wherein the offence was committed for a period not exceeding two months.

34. If a factory is not kept in conformity with this Act, the Court of Summary Jurisdiction, in addition to or instead of inflicting a fine or penalty or other punishment upon the employer, may order certain means to be adopted by the employer, within the time named by the Court, for the purpose of bringing his factory into conformity with this Act; the Court may also, upon application, enlarge the time so named, but if, after the expiration of the time named or enlarged by subsequent order, the order is not complied with, the employer shall be liable to a fine not exceeding \$10 for every day that such non-compliance continues.

35. Where the employer is charged with an offence against this Act he shall be entitled upon information duly laid by him, to have any other person whom he charges as the active offender brought before the Court or tribunal at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the Court that he has used due diligence to enforce the execution of this Act, and that the said other person committed the offence in question without the knowledge, consent or connivance of him, the employer, the said other person shall be summarily convicted of such offence, and the employer shall be exempt from any fine, penalty or punishment.

36. Where it is made to appear to the satisfaction of the Inspector, at the time of discovering the offence, that the employer has used all due diligence to enforce the execution of this Act, and also by what person such offence was committed, and also that it was committed without the knowledge, consent or connivance of the employer, and in contravention of his orders, then the Inspector shall proceed against the person whom he believes to be the actual offender in the first instance without first proceeding against the employer.

37. Where an offence by which the employer is liable under this Act to a fine has in fact been committed by some agent, servant, workman or other person, such agent, servant, workman or other person shall be liable to the same fine, penalty or punishment for such offence as if he were the employer.



38. All fines or penalties in money imposed or recovered under or in pursuance of this Act shall be paid by the convicting Justice or Police Magistrate, as the case may be, to the Inspector, who shall forthwith pay the same over to the Receiver-General of the province, to and for the use of the province.

39. All prosecutions under this Act may be brought and heard before any two of His Majesty's Justices of the Peace in and for the county wherein the penalty was incurred or the offence was committed or wrong done, and in cities and towns in which there is a Police Magistrate, before such Police Magistrate, and save where otherwise provided by this Act the procedure shall be governed by the Summary Convictions Act.

40. The following provisions shall have effect with respect to summary proceedings for offences and fines under this Act:

(a) The information shall be laid within two months, or, where the offence is punishable at discretion by imprisonment, within three months after the offence has come to the knowledge of the Inspector.

(b) The description of an offence in the words of this Act or in similar words shall be sufficient in law.

(c) It shall be sufficient to allege that a factory is a factory within the meaning of this Act without more.

(d) It shall be sufficient to state the name of the ostensible employer or the title of the firm by which the employer employing persons in the factory is easily known.

41. On the trial of any complaint, proceeding, matter or question under this Act, the person opposing or defending, or who is charged with any offence against or under any of the provisions of this Act, shall be competent and compellable to give evidence in or with respect to such complaint, proceeding, matter or question.

42. It shall be the duty of the Inspector to make a report to the Provincial Secretary, or such other existing head of department, as may be designated under the provisions of section 1 of chapter 17, 4 Edward VII, intitled "An Act to provide for a bureau of labour," on the first days of March and September in every year, which report shall give the names and locations of all factories where the conditions are not according to law, or where accidents have occurred during the previous six months, a brief account of all such accidents and such illegal conditions in such factories, and the causes thereof, and any other matters that to the said inspector may seem necessary or desirable, and it shall be the duty of the Provincial Secretary or other head of department as aforesaid, to cause such reports to be laid before the Legislative Assembly as soon as possible after the opening of each session thereof. 1909, c. 42, s. 2.

43. The Lieutenant-Governor in Council may appoint not more than three competent persons who shall constitute a board for the examination of stationary engineers. One of the inspectors appointed under this Act shall be designated as secretary of such board. Written examinations may be held in the presence of the secretary or of the board, as the board shall direct. The board and secretary shall be paid such remuneration as the Lieutenant-Governor in Council shall decide, together with their necessary travelling expenses. 1915, c. 57, s. 2, part.

44. The board is hereby empowered to grant licenses for the management and operation of boilers and other plant in connection with the generation of steam for stationary engines. All persons who, at the time of the passing of this Act, hold certificates of competency or service granted under the provisions of the section hereby repealed, shall be entitled to receive such licenses without examination. 1915, c. 57, s. 2, part.

45. Except as hereinafter provided, the board shall not grant a license to any other person, unless he shall satisfy the board upon examination that he possesses sufficient practical knowledge to qualify him to operate and superintend the operation of a stationary or portable engine and boiler with safety to the person and property in its vicinity. Such examination shall be based upon such practical knowledge as is essential to secure safety, and for this purpose one or more series of questions shall be prepared by the examiners and approved by the Lieutenant-Governor in Council. 1915, c. 57, s. 2, part.

46. Before any person shall be examined for a license, he shall satisfy the examiners that he has been employed as an assistant engineer or fireman under the supervision of a licensed engineer or of an engineer holding a certificate for at least one year or that he has served at least one year at the trade of boilermaking in stationary, marine or locomotive engine or boiler works. All licenses shall continue in force until suspended or cancelled. 1915, c. 57, s. 2, part.

47. A candidate for examination must be of the full age of eighteen years, and shall make application to the secretary of the board upon a form to be supplied and shall furnish information as to his practical experience as a fireman or assistant engineer, or as to his services in the manufacturing or repairing of steam boilers and engines, and shall satisfy the board as to his character and sobriety. The board may



make rules and regulations for the government of examinations and the regulation of applications. 1915, c. 57, s. 2, part.

48. All fees payable by an applicant for license shall be one dollar, in case he possesses a certificate of competency or service, or four dollars in case he obtained such license by examination. 1915, c. 57, s. 2, part.

49. The board shall have power at any time, of their own motion, to cancel or suspend any license granted by them for what they shall deem to be good cause. 1915, c. 57, s. 2, part.

50. No person except he possesses a license granted under this Act, shall have charge of or operate steam boilers and engines within this Province, under a penalty of not less than one dollar and not more than ten dollars, for every day in which he shall have charge of such boiler and engine, without possessing such license, but nothing in this Act shall apply to—

(a) Boilers and engines upon locomotives.

(b) Motor road vehicles.

(c) Boilers and engines in private residence.

(d) Boilers in apartment houses, schools, churches or other public buildings, for hot-water heating only, or where used for steam heating, carrying a pressure of not more than fifteen pounds.

(e) Boilers and engines used for agricultural purposes only, or used for ammonia process plants.

(f) Boilers and engines of less than twenty-five horse-power.

(g) Boilers and engines in charge of a person holding a certificate as a marine engineer, who shall make application to the board for, and shall receive without examination, a license on payment of the prescribed fee. 1915, c. 57, s. 2, part.

51. After thirty days from the coming into force of this Act, the owner or user of a steam boiler or engine other than boilers or engines hereinbefore excepted, shall not operate or cause to be operated such steam boiler or engine, unless the person in charge of and operating it holds a license under this Act. The words "have charge" or "in charge" in this and the preceding section, shall designate the person under whose supervision a boiler or engine is operated. The person operating shall be understood to mean any and all persons who are actually engaged in generating steam in a power boiler. Nothing herein contained shall apply to a fireman or assistants who are working under the supervision of a licensed engineer. 1915, c. 57, s. 2, part.

52. The secretary of the board may, in his discretion, in any special case in which it is made to appear to him that the owner or user of a steam boiler or engine may be unable to procure a duly licensed engineer capable of operating his plant, issue to such owner or user a temporary permit for a period not exceeding thirty days, for operation by a person who he is satisfied has sufficient practical knowledge and experience to operate the same with safety to the plant and to the persons and property in its vicinity. 1915, c. 57, s. 2, part.

53. A license granted under the provisions of the preceding section shall be framed under glass and placed so as to be easily read, in a conspicuous place in the engine room or boiler room of the plant operated by the holder of such license. Failure to properly display such license shall constitute *prima facie* evidence that the person in charge of or operating the plant does not possess such a license. 1915, c. 57, s. 2, part.

54. (a) In case a license is lost, stolen or destroyed, a duplicate shall be issued without examination, on presentation of an affidavit or other satisfactory proof setting forth the facts, and on the payment of one dollar.

(b) In the event of a candidate failing to pass an examination, sixty days shall elapse before he shall become eligible for re-examination, but a candidate shall be entitled to be examined within fourteen days from the filing of his application. 1915, c. 57, s. 2, part.

55. Upon any other province, state or country agreeing to accept licenses issued under this Act as sufficient to entitle the holder to operate steam plants in such province, state or country, or to license the holders of such licenses for such purpose, then the Lieutenant-Governor in Council may, by proclamation, provide that the board shall grant licenses to operate within the province to the holders of similar licenses issued in such other province, state or country. 1915, c. 57, s. 2, part.

## STATUTES OF 1906.

### Employment of Children—School Attendance.

[Chapter 13, part one, provides that in every school district a resolution, that the provisions of this part be made operative in the district, is to be submitted annually at the school meeting until the said resolution is adopted. When a majority of the

voters have voted in favour of the resolution, it becomes the duty of the school trustees to make lists of the names and ages of all children in the district between seven and twelve years of age, and of the names of their parents or guardians. The trustees are to ascertain how many days such children attend school and to collect from the parents or guardians two dollars for each child who has attended school no portion of the year, and *pro rata* for each child who has attended but who has not reached sixty per cent of the teaching days. Parents are to be exempted from payment who can show that their children are being properly educated elsewhere otherwise than in the public schools or whose children are prevented through delicate health, or through being more than two miles from a school in a district where no provision is made for conveyance, or through other sufficient cause, from attendance.

Part two is to be operative only in the cities and incorporated towns to which section 105 of chapter 50 of the Consolidated Statutes, 1903, applies. In each of these cities or towns a resolution bringing into force the provisions of this part is to be submitted annually to the city or town council. When the resolution is adopted, the attendance of children at school shall be regulated as follows:—]

10. Every child in the city or town shall attend school during the regular school hours every day for at least one hundred and twenty days in each school year, unless the physical or mental condition of the child is such as to render such attendance or instruction in the subjects taught in such schools inexpedient or impracticable; but any child over twelve years of age who passes a satisfactory examination in grade seven of common school work, and any other child over thirteen years of age who has attended school sixty days during fourteen consecutive weeks in the preceding year, if necessity requires him to work, and who shows that fact to the satisfaction of the board, and obtains the written permission of the secretary of such board for such employment, shall be exempt from the requirements of this section.

11. The board shall ascertain before the first day of each school year the names and ages of all children residing in the city or town between the ages of six and sixteen years, and the names of their parents or guardians or persons having charge of them, and carefully preserve lists of the same.

14. The board shall ascertain as soon as possible after the close of the school for the year, how many of the children named in the lists prepared under the provisions of this Act have not been at school for one hundred and twenty days during such school year, and shall notify the parents, guardians or persons having charge of such children, of the exact number of days' attendance made by such children during the year, and that they are liable to prosecution under this Act unless they satisfy the Board that there was a good reason for the failure of such children to attend for the full period prescribed.

15. The Board shall also ascertain how many of the children residing in the city or town have not attended school at all during the year, and shall notify the parents, guardians or persons having charge of such children that they are liable to prosecution under this Act unless they satisfy the Board that there was good reason for non-attendance.

16. Every parent, guardian or person having charge of any child residing in the city or town, shall cause such child to attend some public or private day school approved by the Board, at least one hundred and twenty days in each school year, except as exempted under the preceding provisions of this second part.

18. Every parent, guardian or person having charge of any child in the city or town who fails to comply with the next two preceding sections, shall be liable to a penalty of not less than one dollar, nor more than twenty dollars for the first offence, and for every second or subsequent offence to a penalty of one dollar and costs, for each school day that the law is not complied with; provided, however, that the same person shall not be fined more than sixty dollars, exclusive of costs, in any one year.

19. (1) It shall be the duty of the Board to institute proceedings under this Act against all parents, guardians and persons having charge of children residing in the city or town who fail to comply with the law, unless such parents, guardians or persons satisfy the Board that—

(a) The physical or mental condition of the child or of or under the guardianship of such person is such as to render attendance or instruction in a public school inexpedient or impracticable, or

(b) Such child is being properly educated in reading, spelling, writing, composition, geography and arithmetic, otherwise than in a public or approved private school, or

(c) The failure to attend the requisite term was owing to ill health, or temporary absence from the city or town, or

(d) Through some domestic affliction in the family of said person, it is necessary or prudent, in the opinion of the Board to keep such child at home, or

(e) The parent, guardian or person summoned was by reason of poverty unable to provide such child with proper and sufficient wearing apparel for attendance at school,

and that such parent, guardian or person *bona fide* endeavoured to procure sufficient wearing apparel for such child to attend school.

(2) No parent, guardian or person having charge of any child shall be exempted from the penalties mentioned in this second part on the ground that the child in question has been educated otherwise than in a public or approved private school, unless such child present a certificate from the city or town superintendent of schools or a principal of school of the city or town of having passed a satisfactory examination in the grade of work suitable to the child's age and previous opportunities for receiving an education; and it shall be the duty of the city or town superintendent of schools or principal to examine at stated times all such children making application whose compliance with this Act is called in question.

(3) In any prosecution under this Act, the age stated in the information shall be taken *prima facie* to be the age of the child.

(4) The Board, its executive committee, or some person or persons appointed by them for the purpose, shall alone have power and authority to prosecute or institute any proceedings under this Act.

31. (1) No child under the age of sixteen years shall be employed in the city or town by any person to labour in any business whatever during the school hours of any school day unless such child has attended some public school or some approved private school, or has been otherwise instructed by a teacher qualified to instruct in spelling, reading, writing, geography, composition and arithmetic for at least six months of the twelve months next preceding such employment, and in every year in which such child is employed, and at the time of such employment delivers to the employer a certificate signed by the Secretary of the Board, certifying to such attendance, or a certificate signed by the city or town superintendent of schools or principal that such child has passed a satisfactory examination in grade seven of common school work.

(2) No child under the age of thirteen years shall at any time be employed in any mechanical, manufacturing or mercantile establishment.

(3) Any person who employs any child contrary to the provisions of this section shall, for each offence, be liable to a penalty of not less than ten dollars nor more than fifty dollars.

32. The Board or such officer or person as they appoint shall, at the beginning of each school year, and at such other times as the Board deems necessary, examine into the situation of the children employed in all manufacturing and other establishments in the city or town, and ascertain whether the provisions of this Act are duly observed and prosecute all persons violating its provisions.

33. On demand, on any such examination as mentioned in the next preceding section, the proprietor, superintendent or manager of such establishment or manufactory shall exhibit to the officer or person appointed by the Board to make any such examination a correct list of all children under the age of sixteen years employed in such manufactory or establishment with the certificates of attendance at schools or of instruction. Any such proprietor, superintendent or manager who refuses or neglects to furnish such lists and certificates, or to send such lists and certificates to the office of the Board when requested in writing to do so, shall be liable to a penalty of not less than ten dollars, nor more than fifty dollars.

34. All fines, forfeitures and penalties imposed by this Act, or any amendment hereof, shall be prosecuted in the name of His Majesty the King, and when any Act or thing is directed to be done or prohibited by this Act, and no penalty is provided therefor, then, in such case the person violating this Act shall be liable to a penalty not exceeding twenty dollars, and in default of payment, to imprisonment in the county goal for a period not exceeding sixty days, or both, at the discretion of the stipendiary magistrate.

#### STATUTES OF 1907.

#### Homes for Workingmen—Erection of Miners' Houses Encouraged.

Chapter 28.—Whereas, His Majesty the King owns as part of the right of way formerly owned by the New Brunswick Coal and Railway Company, considerable land which is not needed for the purposes of the railway, and which could be utilized to advantage for the erection thereon of miners' houses:

1. The Lieutenant-Governor in Council is hereby authorized to make grants to any mining company or its assigns, upon such conditions as to the Lieutenant-Governor in Council may seem in the public interest, of such portions of such right of way as may not be required for the purposes of the railway, in order that the same may be used for the erection of houses for the use of miners engaged in the work of mining coal near said line of railway.

2. The grants thereof shall be executed in the usual manner.

## STATUTES OF 1911.

**Hours of Labour—Early Closing in Shops.**

[Chapter 10, "The Early Closing Act," with the amendment of 1912, is replaced by 1917, c. 33.]

**Employment of Children—School Attendance.**

Chapter 34.—1. Notwithstanding anything contained in the second part of Chapter 13 of the Acts of the Legislative Assembly, 6 Edward VII., the provisions of said part shall not apply to any child between the age of 14 and 16 years, provided:

(1) That the said child produces a certificate signed by the secretary of the Board of School Trustees of the City or Town in which such child resides, certifying that said child has regularly attended school for a reasonable period previous to the granting of said certificate, and is reasonably proficient in writing, reading and the performance of simple arithmetical problems, involving the fundamental process of addition, subtraction, multiplication and division, or

(2) Passes a satisfactory examination before the secretary of the Board of School Trustees of the City or Town in which such child resides, upon the subjects hereinbefore mentioned, and produces a certificate to that effect.

2. The secretary of the Board of School Trustees is hereby authorized to examine any child applying to be examined under the last preceding section, and to grant certificates thereby authorized in such form as may be sufficient.

3. Whenever it is necessary under this Act that the age of any child shall be verified by the oath or affidavit of any parent or guardian, or any other fact, attested by oath or affidavit, the secretary of the Board of School Trustees, as well as any Justice of the Peace, Commissioner for taking affidavits to be read in the Supreme Court, or Notary Public, is authorized to administer the same.

**Inspection and Regulation of Factories—Plumbing.**

[Chapter 51, the Public Health Act, section 14, enumerates in a number of clauses the subjects for which the Provincial Board of Health may provide by regulations. Among these is the following:—]

(f) For the plumbing and drainage of all buildings in cities and towns where there is a system of public drainage and sewerage, and may designate any city or town in and for which a person shall be appointed, whose duty it shall be to superintend and inspect all plumbing work done or being done in such city or town.

[Section 75 empowers the Lieutenant-Governor in Council on request of any city or incorporated town, or municipality to appoint a chief district health officer. Section 76 defines his duties, among which are the following:—]

(c) To regulate the location, construction, repair, use, emptying and cleaning of all water closets, privies, cess-pools, sinks, plumbing, drains . . . . .

(e) To inspect and report upon the sanitary condition of all . . . . . work-shops and factories.

## STATUTES OF 1912.

**Examination and Licensing of Moving Picture Operators.**

Chapter 13.—3. The Lieutenant-Governor in Council shall have power from time to time . . . . . to make regulations for licensing, using and operating of cinematograph, moving picture machines or other similar apparatus; for prescribing the conditions under which such machines shall be operated; . . . . . for examining, regulating, and licensing operators, and for prescribing the terms and conditions under which such machines shall be operated, . . . . . and shall have every power for such purpose which shall be necessary to carry into effect the terms of this section.<sup>1</sup>

## STATUTES OF 1913.

**Fair Wages to Employees on Public Works.**

Chapter 20.—Upon and after the passage of this Act, there shall be attached to and become a part of every contract of the Public Works Department of the province of New Brunswick, whereby labour is to be done and performed, a fair wage schedule.

Such schedule shall contain the wages that are fair, usual and customary at the time of the letting of the contract, and in the locality in which the contract is to be performed.

<sup>1</sup> Regulations have been issued under the authority of this section.

### Employment of Children in Breweries, etc.

[Chapter 27, "The Children's Protection Act," is replaced by 1916, c. 39. Section 7 of the latter act empowers officers of any incorporated Children's Aid Society, or any policeman, or any truant officer to apprehend without warrant and bring before the judge, as neglected, any boy under fourteen or any girl under sixteen years who falls within certain designations. Subsection (h) is as follows:—]

(h) who is employed in any brewery or shop, saloon, tavern or other place where intoxicating liquors are made, bottled or sold:

### STATUTES OF 1914.

#### Homes for Workingmen.

Chapter 23.—1. In this Act—

"Lands" shall include leaseholds.

"Securities" shall mean bonds, debentures, debenture stock or other securities.

"Municipality" shall mean any city or incorporated town.

2. A Company incorporated under "The New Brunswick Joint Stock Companies' Act" with a share of capital whose main purposes for incorporation are the acquisition of lands in or near a Municipality in New Brunswick, and the building and making thereon of dwelling houses of moderate size, and improvements and conveniences, to be rented at moderate rents, may petition the Council of such Municipality to guarantee its securities, to enable or assist it to raise money to carry out such main purposes.

3. If the Council is satisfied that additional housing accommodation for those living or working in the Municipality is urgently needed, and that the said purpose of the company is to help *bona fide* in supplying such need, and is not to make profits, and that the Company, without borrowing the money required over and above the proceeds of the guaranteed securities, for the housing accommodation in contemplation, will be able to provide the same, the Council may, with the assent of a majority of the electors entitled to vote at an election in such Municipality, and actually voting at any election held for the purpose of determining the same, pass a by-law authorizing and providing for the giving by the Council of such guarantee to the amount and upon the terms and conditions hereinafter contained.

4. A vote of the electors for the said purpose may be taken at any time fixed by the Council, by resolution, and such resolution may be passed at any regular monthly meeting, and shall contain such provisions as may be deemed necessary for an expression of the will of the electors on the question submitted.

5. The Council, or a committee thereof shall, before the guarantee is given, approve of the location of the lands selected for the housing accommodation and of the general plans for the houses.

6. The securities to be guaranteed shall be secured by one or more deeds of trust by way of first mortgage, or charge upon such lands, as the council or committee may approve of, including the houses and improvements built and made, or to be built and made thereon.

7. The kind of securities to be guaranteed, and the forms and terms thereof, and the forms and terms of the deed or deeds of trust securing them and the trustee or trustees, and the times and manner of the issue of securities and the disposition of the moneys to be raised thereon by sale, pledge or otherwise, pending the expenditure of such moneys, and the forms and manner of guarantee, shall be such as the Council or committee approve of, and such terms, provisions and conditions may be included in such deed or deeds of trust as the Council or committee deem expedient or necessary.

8. (1) The guarantee shall be signed by the Mayor and Treasurer of the Municipality and upon being so signed the Municipality shall become liable for the payment of the principal and interest of the securities guaranteed according to the tenor thereof.

(2) If the Municipality becomes liable to pay any of such guaranteed securities, it may provide for the payment of the same out of the general funds of the Municipality, or by the issue of debentures payable within a term not exceeding ten years from the issue thereof, and it shall not be necessary to obtain the assent of the electors to any by-law providing for the issue of such debentures.

9. The total amount of securities to be guaranteed shall not exceed 85 per centum of an amount to be fixed in the deed or deeds of trust, as representing the value of the lands and housing accommodation and improvements to be built and made thereon, and the said deed, or deeds, may make all convenient provisions for the expenditure of said money on the said lands and housing accommodation and improvements.

10. The Council of the Municipality which guarantees securities of the Company, as provided for in this Act, may, from time to time, appoint and remove one member

of the Board of Directors of such Company. It shall not be necessary for the appointee of the Council to hold stock in the capital of the Company, or to be otherwise qualified as a Director.

11. The books of a Company whose securities have been guaranteed by a municipality shall, at all times, be open to inspection by any person named in that behalf by the council.

12. (1) No dividend upon the capital stock of the Company, or other distribution of profits among the shareholders, shall be declared or paid exceeding six per centum per annum in any one year on the then paid-up capital.

(2) Such dividend may be payable in instalments during the year.

(3) If the sums paid in any year do not amount to six per centum, the deficiency, with interest, may be made up in any subsequent year, or years.

13. (1) Any net profits received by the company in any year, and not required to pay said six per centum on the then paid-up capital, or to make up a deficiency therein, or for a reasonable contingent fund, shall be expended by the company in acquiring lands, improving its housing accommodation by way of new buildings, additions, extensions or other improvements, or to provide a sinking fund for the redemption of the securities guaranteed under the provisions of this Act, at maturity, which shall be deposited in a chartered bank on interest, and the disposition of such moneys for one or the other of said purposes, shall be determined by by-law of the municipality.

(2) The Chancery Division of the Supreme Court of New Brunswick shall have jurisdiction, upon the application of the council of the municipality guaranteeing the company's securities, to enforce by mandamus or otherwise the carrying out of this section by the company, its directors and officers.

14. No stock in the capital of the company shall be sold or disposed of for any consideration other than cash, and moneys received by the company on account of its capital stock shall not be used for expenditures other than those connected with the carrying out of the said purposes of the company, namely, the acquisition of lands in or near a municipality in New Brunswick, and the building and the making thereon of dwelling houses of moderate size, with improvements and conveniences, and the carrying out of the objects of this Act.

### Workmen's Compensation.

Chapter 34.—1. This Act may be cited as "The Workmen's Compensation for Injuries Act."

2. In this Act, unless the context otherwise requires:

(1) "Superintendence" means such general superintendence over workmen as is exercised by a foreman or a person in a like position to a foreman, whether the person exercising superintendence is or is not ordinarily engaged in manual labour.

(2) "Employer" includes a body of persons, corporate or incorporate, and also the legal representatives of a deceased employer, and the person liable to pay compensation under section 4 of this Act.

(3) "Workman" does not include a person whose employment is of a casual nature and otherwise than for the purpose of the employer's trade or business, or a domestic or menial servant, or a servant in husbandry, gardening or fruit growing, or in lumbering, or in driving, rafting or booming logs, or a person employed as a clerk in an office, or in a wholesale or retail shop or store, or a person employed as seaman or fisherman, when the personal injury caused to any such servant or person has been occasioned by, or has arisen from, or in the usual course of his work or employment as a domestic or menial servant, or as a servant in husbandry, gardening, or fruit growing, or in lumbering, or in driving, or in booming logs, or as a clerk in an office, or wholesale or retail shop or store, or as a seaman or fisherman; but save as aforesaid means any railway servant, ship-labourer, longshoreman, quarryman, miner, graniteworker, stone-cutter, pondman, and any person who, being a labourer, servant, journeyman, artificer, handicraftsman, or otherwise engaged in manual labour, whether under the age of twenty-one years or above that age, has entered into or works under a contract with an employer whether the contract was made before or after the passing of this Act, and whether such contract is expressed or implied, oral or in writing, and is a contract of service or a contract personally to execute any work or labour.

(4) "Railway Servant" means and includes a railway servant, tramway servant, and street railway servant.

(5) "Dependents" means and includes only the workman's wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister.

3. When the personal injury is caused to a workman:

(a) By means of any defect in the condition or arrangement of the ways, works, machinery, gear, appliances, plant, scow, boat, vessel, building, or premises connected with, intended for, or used in the business of the employer; or

(b) By reason of the negligence of the employer, or any person in the service of the employer; or

(c) By reason of the act or omission of any person in the service of the employer, done or made, in obedience to the rules or by-laws of the employer, or in obedience to particular instructions given by the employer, or by any person delegated with the authority of the employer in that behalf. The workman, or in case the injury results in death, the legal representatives of the workman, and any person entitled in case of death, shall have the same right of compensation and remedies against the employer as if the workman had not been a workman of nor in the service of the employer, nor engaged in his work.

4. (1) Where any work is being carried on under any contract; and

(a) The person for whom the work, or any part thereof, is done, supplies any ways, works, machinery, gear, appliances, plant, scow, boat used for the purpose of executing the work; and

(b) By reason of any defect in the condition or arrangement of such ways, works, machinery, gear, appliances, plant, scow, boat, vessel, building or premises, personal injury is caused to any workman employed by the contractor or by any sub-contractor, the person for whom the work or that part of the work is done shall be liable to pay compensation for the injury as if the workman had been employed by him, and for that purpose be deemed to be the employer of the workman within the meaning of this Act; provided always, that any such contractor or sub-contractor shall be liable to pay compensation for the injury as if this section had not been enacted; and also, provided that double compensation shall not be recoverable for the same injury.

(2) Nothing in this section contained shall affect any rights or liabilities of the person for whom the work is done, and the contractor or sub-contractor (if any) as between themselves.

5. A workman or his legal representatives, or any person entitled, in case of his death, shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases:

(a) Where personal injury is caused to such workman by reason of his own wilful act, with intent to cause personal injury, or by reason of disobedience of rules, orders, or by-laws of the employer, contractor or sub-contractor; provided always, that printed or typewritten copies of such rules, orders and by-laws have been posted and kept posted in a conspicuous position in the different places where the workmen carry on their work.

(b) Where personal injury is caused to such workman by reason of the malicious act or malicious neglect of a fellow workman, with intent to cause personal injury.

(c) In any case where the workman knew of the defect or negligence which caused his injury and failed without reasonable excuse to give or cause to be given within a reasonable time, information thereof to the employer, or some person in charge of the particular work in connection with which the injury was sustained, or some person occupying the position of superintendent or foreman of the employer, unless he was aware that the employer, or such person so in charge of the work, or such superintendent or foreman already knew of the same defect or negligence; provided, however, that such workman shall not, by reason only of his continuing in the employment of the employer, with knowledge of the defect, negligence, act or omission, be deemed to have voluntarily incurred the risk of the injury.

(d) Where the workman is injured or killed through the negligence of a fellow-workman, who at the time when such negligent act was committed was under the influence of intoxicating liquors, unless the workman so injured or killed, on becoming aware of the condition of his fellow-workman, and within a reasonable time thereafter notified the foreman or any other person in charge of any work that his fellow-workman was under the influence of intoxicating liquors as aforesaid.

6. The amount of compensation under this Act shall be:—

(1) Where death results from the injury—

(a) If the workman leaves any dependents who, at the time of his death, reside in Canada, and are partially or wholly dependent upon his earnings, a sum equal to his earnings in the employment of the same employer during the three years next preceding the injury, but not exceeding in any case two thousand dollars (\$2,000); provided, that the amount of any weekly payments made under this Act shall be deducted from such sum, and if the period of the workman's employment by the said employer has been less than the said three years, then the amount of his earnings during the said three years shall be deemed to be one hundred and fifty-six times his average weekly earnings during the period of his actual employment under the said employer; but such compensation in no case to be less than one thousand and five hundred dollars (\$1,500).

(b) If he leaves no dependents, the reasonable expenses of his medical attendance and burial, not exceeding seventy-five dollars (\$75).



(2) Where the total or partial incapacity for work results from the injury, a weekly payment during the incapacity not to exceed seventy-five per cent of his average weekly earnings during the previous twelve months, if he has been so long employed, but if not, then for any less period during which he has been in the employment of the same employer; such weekly payment not to exceed twelve dollars (\$12), and in no case to be less than six dollars (\$6) per week; provided that:

(a) If the incapacity lasts less than two weeks, no compensation shall be payable in respect to the first week; and

(b) If the incapacity lasts for more than one hundred (100) weeks, and is due to total blindness of both eyes, the loss of an arm or leg, or both, the total disability of a limb, or the loss of a hand or foot, or both, compensation shall be payable in respect thereof to not exceeding two hundred (200) weeks; and

(c) Where a workman has given notice of an accident, he shall, if so required by the employer, submit himself for examination once in each week after such accident by a duly qualified medical practitioner, provided and paid by the employer, and if he refuses to submit himself to such examination, or in any way obstructs the same, he shall not be entitled to compensation or to take any proceedings to recover compensation under this Act during the time covered by such refusal or obstruction.

7. Subject to the provisions of sections 10 and 11, an action under this Act for the recovery of compensation for an injury shall not be maintainable against the employer of the workman, unless notice that an injury has been sustained is given within two months, except in case where reasonable excuse is furnished for failure to give such notice within said time, and such notice is given as soon thereafter as possible, and unless the action is commenced within six months from the occurrence of the accident causing the injury, or, in case of death, within twelve months of the time of death; provided always, that in case of death the want of such notice shall be no bar to the maintenance of such action, if the judge is of opinion that there was reasonable excuse for such want of notice.

8. Notwithstanding anything in this Act contained, an action under any of the provisions of this Act to secure compensation for injuries to a workman may be maintained against the legal personal representatives of a deceased employer.

9. There shall be deducted from any compensation awarded to any workman or representative of a workman, or persons claiming by, under or through a workman in respect to any cause of action arising under this Act, any penalty or damages, or part of a penalty or damages, which may in pursuance of any other Act either of the Parliament of Canada or of the Legislature of New Brunswick, have been paid to such workman, representatives or persons, in respect of the same cause of action, and where an action has been brought under this Act by any workman, or the representatives of any workman, or any person claiming by or under or through such workman, for compensation in respect of any cause of action arising under this Act, and payment has not previously been made of any penalty or damages or part of a penalty or damages under any such Act in respect to the same cause of action, such workman, representatives, or persons, shall not, so far as the Legislature of this province has power to enact, be entitled thereafter to receive in respect to the same cause of action, any such penalty or damages under any such last-mentioned Act.

10. (1) Notice in respect of any inquiry under this Act shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which it was sustained, and shall be served on the employer, or if there is more than one employer, upon one of such employers.

(2) The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served.

(3) The notice may also be served by post, by a registered letter, addressed to the person on whom it is to be served, at his last known place of residence, or place of business, and, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving the service of such notice it shall be sufficient proof that the notice was properly addressed and registered.

(4) Where the employer is a body of persons, corporate or incorporate, notice shall be served by delivering the same at, or by sending it by post in a registered letter addressed to the office of such employer, or, if there be more than one office, at any one of such offices.

(5) The want or insufficiency of the notice required by this section or by section 7 of this Act, shall not be a bar to the maintenance of an action for the recovery of compensation for the injury, if the Court or Judge before whom such action is tried, or, in case of appeal, if the Court hearing the appeal is of the opinion that there was reasonable excuse for the want or insufficiency, and that the defendant has not been thereby prejudiced in his defence.

(6) A notice under this section shall be deemed sufficient, if in the form of the schedule hereto, or to the like effect.

11. If the defendant in any action against an employer for compensation for an injury sustained by a workman in the course of his employment, intends to rely for defence on the want of notice or the insufficiency of notice, or on the ground that he was not the employer of the workman injured, he shall, not less than seven days before the hearing of the action, give notice to the plaintiff of his intention to rely on that defence, and the court may, in its discretion, and upon such terms and conditions as are just, order and allow an adjournment of the trial, for the purpose of enabling such notice to be given, and subject to any such terms and conditions, any notice given pursuant to and in compliance with the order in that behalf, shall, as to such action and for all purposes thereof, be held to be a notice given under and in accordance with section 7 and 10 of this Act.

12. In any action brought under this Act, the declaration shall state in ordinary language the cause of the injury and the date at which it was sustained, and the amount of compensation claimed, and where the injury of which the plaintiff complains has arisen by reason of the negligence, act or omission of any person in the service of the defendant, the declaration shall give a reliable description of such person.

13. No contract or agreement made or entered into by a workman shall be a bar or constitute any defence to an action for the recovery under this Act of compensation for an injury:

(a) Unless for such workman entering into or making such contract or agreement, there was other consideration than that of his being taken into or continued in the employment of the defendant; or,

(b) Unless such other consideration was, in the opinion of the Court or Judge before whom such action is tried, ample and adequate; or,

(c) Unless in the opinion of the Court or Judge such contract or agreement in view of such other consideration was not, on the part of the workman, improvident, but was just and reasonable; and the burden of proof in respect to such other consideration and of the same being ample and adequate, and that the contract was just and reasonable and was not improvident shall, in all cases, rest upon the defendant.

14. When the injury was caused by the personal negligence or wilful act of the employer (or of some person for whose act or default the employer is responsible) nothing in this Act shall affect any civil liability of the employer; but in that case the workman may, at his option, either claim compensation under this Act, or take the same proceedings as were open to him immediately preceding the passing of this Act, but the employer shall not be liable to pay compensation for an injury to a workman by accident arising out of and in the course of the employment, both independently of and also under this Act.

15. A defendant may, by notice to the opposite party, to be given or served at least six days before the day appointed for the trial of the action, admit the truth of any statement of his liability for any alleged negligence, act, or omission, as set forth or contained in the plaintiff's declaration or particulars of claim in the action, and after such notice given, the plaintiff shall not be allowed any expense thereafter incurred for the purpose of proving the matters so admitted.

16. Where the time for doing any act, taking any proceeding, or giving any notice under or required by this Act, expires on a holiday, such act or proceeding or notice shall, so far as regards the time of doing, taking or giving the same, be held to be duly and sufficiently done, taken or given, if done, taken or given on the next day thereafter which is not a holiday.

17. (1) If any person, or the representatives of any person, are desirous of claiming compensation under this Act, he or they may, instead of bringing an action in the ordinary way, proceed summarily by petition to a Judge of the Supreme Court, which shall set forth in brief form the particulars of the claim and the circumstances upon which it is founded, and the Judge may, after such reasonable notice or notices to the party against whom compensation is sought, as he may deem proper, proceed in a summary way to hear such petitions on the merits, without regard to technicalities, and shall decide the case as he may deem just and equitable, having regard to the principles laid down in, and the provisions of this Act. There shall be no appeal from the decision of such Judge, which shall be final and conclusive; provided the amount, if any, allowed to the claimant is not greater than is provided for by this Act. On the hearing of such petition the witnesses shall be examined under oath, which oath the Judge is hereby authorized to administer. He may also make orders for the attendance before him of such witness or witnesses as he may deem necessary; and any witness who has been served with such order, and who refuses or neglects to attend before the Judge and give evidence pursuant to such order, shall be guilty of contempt of court, and liable to be punished therefor by attachment.

(2) Any order which the Judge may make for the payment of the amount to which he may find the claimant entitled, and costs, if he awards costs, or against the claimant for costs, in case the petition is dismissed, shall, upon being filed with the Registrar of the Supreme Court, have the same force and effect as a judgment in the Supreme Court, and execution may be issued there on the same as upon such judgment.

(a) In case the Judge shall make an order for a weekly payment during the incapacity of the workman prospectively, an execution may be issued thereon for the amount due up to the time of the issue of said execution, and also for the aggregate amount of the weekly payments up to the end of the period for which the same shall have been prospectively awarded. The said aggregate amount shall be diminished by discounting the same at the rate of four per centum per annum for the period from the issue of such execution to the date of the last payment so awarded.

18. The foregoing provisions of this Act shall apply to all weekly payments prospectively awarded by a Judge or by a jury under subsection 2 of section 6 of this Act.

19. When proceedings have been taken either by action or by a petition, to enforce payment of compensation under clause (a) of subsection 1 of section 6 of this Act, any proposed settlement or compromise of such litigation, including costs proposed to be paid, shall be submitted for approval to a Judge of the Supreme Court, who shall advise the plaintiff or claimant as to the reasonableness of the same, and unless such proposed settlement or compromise be submitted as aforesaid, the claim for compensation shall not be deemed to be satisfied.

20. In case the employer neglects to make the weekly payments provided to be made by subsection 2 of section 6 of this Act, after demand upon him for the same, the workman may apply to any Judge of the King's Bench Division of the Supreme Court, or to any Judge of a County Court, who is hereby authorized to make an order for the payment of the weekly payment or payments in arrear, with or without costs, and such order shall have the same force and effect as a judgment in the Supreme Court, and execution may be issued thereon the same as upon such judgment, and the amount thereof may be levied and made by the Sheriff as in other cases.

21. The said Registrar, as the case may be, shall make and establish any necessary forms, rules or orders for the better carrying out of the provisions of this Act, which forms, rules and orders shall be as valid as if enacted as part of this Act.

22. The Judge may or may not award costs to either party, as to him may seem just, and if he allows costs, he shall tax and fix the amount thereof. In no case shall he award more than twenty-five dollars costs against the petitioner, or more than one hundred dollars costs against the respondent.

23. In case the employer against whom a petition shall be presented under this Act shall not be a resident of the province, all notices and other documents and proceedings may, by leave of the judge, be served as provided by section 10 of this Act, on any ostensible agent or attorney of such employer who resides within the said province.

24. If the employer shall be a firm or person carrying on business in a name other than his own, whether within the province or not, the provisions of Order XLVIII A of the Rules of the Supreme Court, 1909, shall apply, so far as the same may be capable of being applied to a petition and proceedings thereupon.

25. The provisions of Orders XXXI and XXXII of the Rules of the Supreme Court, 1909, shall also apply to proceedings under a petition together with such other of the said rules as the Judge hearing the petition shall consider applicable to the circumstances of the case, and calculated to expedite and ensure justice therein.

26. The provisions of this Act shall not entitle a workman to any greater compensation in respect of personal injury caused to such workman before the coming into force of this Act than that which hitherto would have been payable in respect thereof.

27. The following Acts and parts of Acts are hereby repealed:

Chapter 146, Consolidated Statutes, 1903.

Chapter 26, 7 Edward VII, 1907.

Chapter 31, 8 Edward VII, 1908.

Chapter 43, 1 George V, 1911.

Chapter 32, 2 George V, 1912.

(Schedule omitted.)

## STATUTES OF 1915.

### Registration and Licensing of Chauffeurs.

Chapter 43.—6. (1) Every person hereafter desirous to operate a motor vehicle as a chauffeur shall file in the office of the secretary, on a blank to be supplied by such secretary, a statement which shall include the name and address of the applicant, nationality, age, height, weight, colour of eyes and hair, and shall give the trade name, and motor power of the motor vehicle or vehicles he is able to operate; and shall pay a registration fee of two dollars, and in addition as provided in section 9.

(2) Before a license is granted the applicant shall furnish testimonials as to his character and sobriety to the secretary, and no license shall be issued until the secretary is satisfied that the applicant is a proper person to receive it. No chauffeur's license shall be issued to any person under eighteen years of age.

(3) The secretary shall thereupon file such statement in his office, register such chauffeur in a book or index to be kept for that purpose, and assign him a number.

(4) The secretary shall forthwith, upon such registration, deliver to such chauffeur a badge of aluminium or other suitable metal, and such badge shall have stamped thereon the words "Registered Chauffeur License, N.B." with the registration number inserted therein, which badge shall thereafter be worn by such chauffeur, upon his clothing in a conspicuous place at all times while he is operating a motor vehicle upon the public highways.

(5) No chauffeur having registered as hereinbefore provided shall voluntarily permit any other person to wear his badge nor shall any person while operating a motor vehicle wear any badge belonging to another person or a fictitious badge.

(6) No person shall operate a motor vehicle as a chauffeur upon the public highways unless such person shall have complied with the requirements of this section and section 9.

9. (1) No chauffeur shall drive a motor vehicle unless he shall have paid to the Secretary of the Department of Public Works, in addition to the registration fee required by this law, an annual fee of two dollars, which said annual fee shall be payable the first day of January in each year, and any person who permits a chauffeur to operate his car until satisfied that said chauffeur has paid his annual tax, shall be liable to a penalty of not less than two or more than ten dollars.

(2) The Secretary shall give to each chauffeur a receipt for this annual tax, which receipt is to contain the nationality, age, height, weight, colour of eyes and hair of chauffeur, and to be carried on the person of the chauffeur and produced upon demand.

**QUEBEC.****CIVIL CODE.<sup>1</sup>****Earnings of Minors—Suits for Wages.**

304. Actions belonging to a minor are brought in the name of his tutor. Nevertheless, a minor of fourteen years of age may bring alone actions to recover his wages.

He may also with the authority of a judge, bring alone all other actions arising from the contract for the hire of his personal services.

**Liability of Employers for Injuries to Employees.**

1053. Every person capable of discerning right from wrong is responsible for the damage caused by his fault to another, whether by positive act, imprudence, neglect or want of skill.

1054. He is responsible not only for the damage caused by his own fault, but also for that caused by the fault of persons under his control and by things which he has under his care;

Masters and employers are responsible for the damage caused by their servants and workmen in the performance of the work for which they are employed.

**Employment of Labour—General Provisions.**

1666. The principal kinds of work which may be leased or hired are:

1. The personal services of workmen, servants and others;  
2. The work of carriers, by land and by water, who undertake the conveyance of persons or things;

3. That of builders and others, who undertake works by estimate or contract.

1667. The contract of lease or hire of personal service can only be for a limited term, or for a determinate undertaking.

It may be prolonged by tacit renewal.

1668. It is terminated by the death of the party hired or his becoming, without fault, unable to perform the services agreed upon.

It is also terminated by the death of the party hiring, in some cases, according to circumstances.

1669. In any action for wages by domestics or farm servants, the master may, in the absence of written proof, offer his oath as to the conditions of the engagement and as to the fact of the payment, accompanied by a detailed statement; but such oath may be refuted in the same manner as any other testimony.

1670. The rights and obligations arising from the lease or hire of personal service are subject to the rules common to contracts. They are also regulated in certain respects in the country parts by a special law, and in the towns and villages by by-laws of the respective municipal councils.

1671. The hiring of seamen is subject to certain special rules provided in the Imperial Laws respecting merchant shipping and the Federal Acts respecting the hiring of seamen, and the hiring of boatmen, commonly called voyageurs, by the Provincial Act respecting voyageurs.

**Rights and Obligations of Workmen as Contractors.**

1633. When a party undertakes the construction of a building or other work by estimate and contract, it may be agreed, either that he shall furnish labour and skill only, or that he shall also furnish materials.

1634. If the workman furnish the materials, and the work is to be perfected and delivered as a whole, at a fixed price, the loss of the thing, in any manner whatsoever, before delivery, falls upon himself, unless the loss is caused by the fault of the owner or he is in default of receiving the thing.

1635. If the workman furnish only labour and skill, the loss of the thing before delivery does not fall upon him, unless it is caused by his fault.

1636. In the case of the last preceding article, if the work is to be perfected and delivered as a whole, and the thing perish before the work has been received, and without the owner being in default of receiving it, the workman cannot claim his wages, although he be without fault; unless the thing has perished by reason of defect in the materials, or by the fault of the owner.

1637. If the work be composed of several parts, or done at a certain rate by measurement, it may be received in parts. It is presumed to have been so received, for all the parts paid for, if the owner pays the workman in proportion to the work done.

<sup>1</sup> Edition by Henry J. Kavanagh, K.C., 1912.

1688. If a building perish in whole or in part within ten years, from a defect in construction, or even from the unfavourable nature of the ground, the architect superintending the work, and the builder are jointly and severally liable for the loss.

1689. If, in the case stated in the last preceding article, the architect do not superintend the work, he is liable for the loss only which is occasioned by defect or error in the plan furnished by him.

1690. When an architect or builder undertakes the construction of a building or other works by contract, upon a plan and specifications, at a fixed price, he cannot claim any additional sum upon the ground of a change from the plan and specifications, or of an increase in the labour and materials, unless such change or increase is authorized in writing and the price thereof is agreed upon with the proprietor, or unless the agreement upon those two points be established by the decisory oath of the proprietor.

1691. The owner may cancel the contract for the construction of a building or other works at a fixed price, although the work have been begun, on indemnifying the workman for all his actual expenses and labour, and paying damages according to the circumstances of the case.

1692. The contract of lease or hire of work by estimate and contract is not terminated by the death of the workman; his legal representatives are bound to perform it. But in cases wherein the skill and ability of the workman were an inducement for making the contract, it may be cancelled at his death by the party hiring him.

1693. In the latter case stated in the last preceding article the owner is bound to pay to the legal representatives of the workman, in proportion to the price agreed upon in the contract, the value of the work done and materials furnished, in case such work and materials are useful to him.

1694. The contract is not terminated by the death of the party hiring the work, unless the performance of it becomes thereby impossible.

1695. Architects, builders and other workmen, have a privilege upon the buildings, or other works constructed by them, for the payment of their work and materials, subject to the rules contained in the title of Privileges and Hypothecs, and the title of Registration of Real Rights.

1696. Masons, carpenters, and other workmen, who undertake work by contract, for a fixed price, are subject to the rules prescribed in this section. They are regarded as contractors with respect to such work.

1697. The workmen who are employed by the contractor in the construction of a building or other works have no direct action against the owner.

#### Payment of Wages.

1697a. Every builder or contractor, whether chief or sub-contractor, who employs workmen by the day or by piece work, to carry out a contract, must keep a list, showing the names and wages or price of the work of such workmen; and every payment to them made must be attested by the signature or cross of such workman affixed thereto, in presence of a witness, who also signs it.

1697b. It shall be lawful for every workman who is unpaid to produce, in the presence of a witness, to the proprietor who gave the work out to contract, his claim in duplicate in the form of schedule B; and from the time such claim shall be so produced, the sum then due upon the price or value of the contract shall be deemed to be seized in the hands of the proprietor *pro rata* up to the amount of the claim of the workman.

Five days after the production of such claim, if the claim of the workman have not been paid, the latter may proceed judicially against the contractor who employed him, making the proprietor a party to the suit.

Payments made by the proprietor after the production of the claim cannot be opposed to the workman's claim.

1697c. Several unpaid workmen may join in the same claim.

1697d. In case of an assignment by the contractor to a third party of the price of the work, the claim of the workman has, with respect to such third party, the same effect as it would have had with respect to the contractor if no such assignment had been made.

(Schedules omitted.)

#### Workmen's Liens—Fishermen, Woodmen, Etc.

1994. The claims which carry a privilege upon moveable property are the following, and when several of them come together they take precedence in the following order, and according to the rules hereinafter declared, unless some special law derogates therefrom:

9. Servants' wages and those of employees of railway companies engaged in manual labour, and sums due for supplies of provisions.

1994a. Each person engaged to fish, or assist at any fishery, or in the dressing of fish, either by written agreement or otherwise, has, for securing his wages or share, a first lien preferable to any other creditor upon the produce of his employer's fishery.

1994c. Every person engaging himself to cut or manufacture timber, or to draw it out of the forest, or to float, raft or bring it down rivers and streams, has, for securing his wages or salary, a privilege, ranking with the claims of creditors who have a right of pledge or of retention, upon all the timber belonging to the person for whom he worked, and, if he worked for a contractor, sub-contractor or foreman, upon all the timber belonging to the person in whose service such contractor, sub-contractor or foreman were, and which was cut, drawn or floated, by such contractor, sub-contractor or foreman; but said privilege is extinguished as soon as the lumber shall have passed into the hands of a third person who has bought it, has received delivery thereof, and has paid the price therefor in full. Such privilege in no wise affects that which the banks may acquire in virtue of the Banking Act. However, in the case in which the creditor has worked for a contractor or sub-contractor, such privilege shall not exist unless the person having a right thereto has given a written notice to the person affected by the exercise thereof, and to the debtor or their agents or employees, of the amount due to him at each term of payment, as soon as possible, and such notice may be given by one creditor for and in the name of all the others who are unpaid.

2. In the event of a contestation between the creditor and the debtor respecting the amount due, the creditor shall, without delay, give written notice to the person affected, by the exercise of such right, and the latter shall then retain the amount in dispute until he receives a written notification of an amicable settlement or of a judicial decision.

1994d. Workmen who have worked for persons giving theatrical or other profit-making exhibitions, including circuses, shall have a privilege upon things used for the purposes of such exhibitions above-mentioned, and which belong to such persons, for thirty days' salary due and unpaid. 1914, c. 64, s. 1.

2001. Creditors, having a right of pledge or of retention, rank according to the nature of their pledge or of their claim.

The following is the order among them:

- Carriers;
- Hotel-keepers;
- Mandataries or consignees;
- Borrowers in loan for use;
- Depositories;
- Pledges;

Workmen upon things repaired by them, and persons having a privilege in virtue of article 1994c or 1994d. 1914, c. 64, s. 2.

#### Mechanics' Liens.

2009. The privileged claims upon immovables, are hereinafter enumerated and rank in the following order:

7. The claim of the labourer, workman, architect and builder, subject to the provisions of article 2013.

9. Servants' wages, and those of employees of railway companies engaged in manual labour, under the same restriction as funeral expenses.

2013. The labourer, workman, architect, builder and the supplier of materials have a right of preference over the vendor and other creditors, on the immovable, but only the additional value given to the immovable by the work done.

In case the proceeds are insufficient to pay the labourer, workman, architect, builder and the supplier of materials, or in cases of contestation, the additional value given by the work is established by a relative valuation effected in the manner prescribed in the Code of Civil Procedure.

The aforesaid privileged claim is paid only upon the amount established as being the additional value given to the immovable by the work done.

2013a. For the purposes of the privilege, the labourer, workman, architect, and builder, rank as follows:

1. The labourer;
2. The workman;
3. The architect;
4. The builder;
5. The supplier of materials.

2013b. The right of preference or privilege upon the immovable exists, as follows:

Without registration of the claim, in favour of the debt due the labourer, workman and the builder, during the whole time they are occupied at the work or while such work lasts, as the case may be; and, with registration, provided it be registered within the thirty days following the date upon which the building has become ready for the purpose for which it is intended.

But such right of preference or privilege shall exist only for one year from the date of the registration, unless a suit be taken in the interval, or unless a longer delay for payment has been stipulated in the contract.



2013c. The preservation of the privilege is subject to the following conditions:

The labourer and workman must give notice in writing, or verbally before a witness, to the proprietor of the immovable, that they have not been paid for their work, at and for each term of payment, due to them.

Such notice may be given by one of the employees in the name of all the other labourers or workmen who are not paid, but in such case the notice must be in writing.

The architect and builder shall likewise inform the proprietor of the immovable, or his agents, in writing, of the contracts which they have made with the chief contractor, within eight days from the signing of the same.

2013d. In order to meet the privileged claims of the labourer and workman, the proprietor of the immovable may retain an amount equal to that which he has paid or will be called upon to pay, according to the notices he has received, so long as such claims remain unpaid.

2013e. In the event of a difference of opinion between the creditor and the debtor, with respect to the amount due, the creditor shall without delay, inform the proprietor of the immovable, by means of a written notice which shall also mention the name of the creditor, the name of the debtor, the amount claimed and the nature of the claim.

The proprietor then retains the amount in dispute until notified of an amicable settlement or a judicial decision.

2013f. The sale to a third party by the proprietor of the immovable or his agents, or the payment of the whole or a portion of the contract price, cannot in any way affect the claims of persons who have a privilege under article 2013, and who have complied with the requirements of articles 2013a, 2013b, 2013c and 2013.

2013g. The supplier of materials shall, before delivery of the materials, give notice in writing to the proprietor of the immovable, of the contracts made by him for the delivery of materials, and mention the costs thereof and the immovable for which they are intended.

2013h. In order to meet the privileged claims of the suppliers of materials, the proprietor of the immovable retains, on the contract price, an amount equal to that mentioned in the notices he has received.

2013i. The notices mentioned in article 2013g have the effect of an attachment by garnishment on the contract price.

Within the three months following the notice given in accordance with article 2013g, the interested parties must take legal proceedings to have the debtor condemned and the seizure declared valid, otherwise the latter lapses; and, to such suit, the proprietor of the immovable must be made a party.

2013j. In the event of the proprietor of the immovable erecting the building himself without the intermediary of any contractor, the notices mentioned in article 2013g may be given to the person or persons who lend or may lend money to the person building, and thereupon the latter shall, *mutatis mutandis*, be subject to the provisions of the preceding articles.

2013k. No transfer of any portion of the contract price or of the amount borrowed, as the case may be, either before or during the execution of the work, can be set up against the said suppliers of materials; nor can any payment, exceeding the cost of the work done, according to a certificate of the architect or superintendent of the works, affect their rights.

2013l. On notice given to the proprietor in virtue of article 2013g, and registered according to article 2103, the suppliers of materials shall have a hypothecary privilege which shall rank after the hypothecs previously registered and the privileges created by this act.

2103. The privilege of the persons mentioned in article 2013 dates, in the cases mentioned in the first clause of article 2013b, only from the registration, within the proper delay, at the registry office of the division in which is situated the immovable affected by the inscription, of a notice or memorial, drawn up according to form A, with a deposition of the creditor, sworn to before a justice of the peace or a commissioner of the Superior Court, setting forth the nature and the amount of the claim, and describing the immovable so affected.

2. In registering such memorial, it is sufficient to mention, opposite the official number of the cadastre which describes the immovable, if the cadastre be deposited, or opposite the title of the registered deed, if the cadastre be not yet deposited, the name of the claimant and the amount due at the time the memorial is filed.

3. The memorial shall be made out in duplicate, one copy of which shall remain in the archives of the registry office and the other be delivered to the creditor with the registrar's certificate thereon.

4. The creditor shall, within three days from the registration of the memorial, give a written notice to the proprietor of the immovable, or to his agents, if he cannot be found.

(Form A omitted.)

CODE OF CIVIL PROCEDURE.<sup>1</sup>**Exemption of Wages and Pensions from Seizure.**

[Article 599 enumerates in a number of clauses possessions which are exempt from seizure. Clauses 8 to 10 inclusive deal with the salaries of teachers, of public officers, and of municipal officers and employees. Clauses 11, 13 and 14 provide for the exemption from seizure of other salaries and wages and of pensions as follows:]

11. All other salaries and wages, at whatever time and in whatever manner payable, for

- (a) Four-fifths, when they do not exceed three dollars per day;
- (b) Three-quarters, when they exceed three dollars but do not exceed six dollars per day; and
- (c) Two-thirds when they exceed six dollars per day.

13. All pensions granted by financial or other institutions to their employees, by means of retiring funds or pension funds established among the said employees, as well as the instalments paid, or to be paid, to form such pension funds and to give a right to the benefits arising therefrom.

14. Four-fifths of the salary, remuneration or earnings of members of the Corporation of Pilots for and below the harbour of Quebec, for the pilotage of vessels.

**Garnishment of Wages.**

[Article 685 sets forth what a garnishee must declare concerning his indebtedness. An amendment added by 1912, first session, chapter 50, provides for the valuation of certain services as follows:]

If the garnishee declares that the debtor is in his employ, or that he works for him, but without receiving wages or remuneration for his work or services, the judge, on petition of the seizing creditor, may order proof of the value of the debtor's work or services, and, on such proof, may determine in money the amount of the wages or the value of the debtor's work or services, and the amount so fixed shall be thereafter treated for all the purposes of the case, as having been and as being the debtor's wages or to the value of his services, until it is proved, upon the demand of the debtor or of the creditor, that the amount so fixed ought to be changed. 1912, first session, c. 50, s. 1.

697. In seizing salaries or wages mentioned in paragraphs 10 and 11 of Article 599, the seizure by garnishment remains binding for the proportion which is seizable, so long as the contract or engagement continues or so long as the debtor remains in the employ of the garnishee.

Any other creditor may, so long as the seizure in garnishment remains binding, file in the record of the case his sworn claim, and in such case shall give notice thereof to the seizing creditor and to the debtor.

The prothonotary after collocating the first seizing party for his costs, distributes rateably among the creditor and the creditors who have fulfilled the requirements of the preceding paragraph, the sum to be divided, and determines, in a summary manner, upon the writ or upon a sheet annexed thereto, the amount coming to each of the creditors.

The garnishee must, on making his declaration, deposit the sum which he owes; and if the defendant continues in his service, the garnishee must every month either renew his declaration in the office of the court, and make the required deposit, or transmit to the prothonotary, by registered letter, a sworn declaration stating the amount in which he is indebted, accompanied with the amount to be deposited.

If he neglects so to do, he may be thereto compelled by a judge's order.

If the defendant quits his service, the garnishee makes a declaration to that effect.

The garnishee may, upon making his original declaration, fix the day of the month, not later than the fifteenth, at which he will renew his declaration.

The moneys seized and paid remain in the hands of the prothonotary, who pays them over to the plaintiff and the other creditors on demand three days after they are deposited, if there are no oppositions.

In other respects, the seizure of salaries is subject to the same rules as seizures by garnishment in general.

## REVISED STATUTES OF 1909.

**Protection of Employees as Voters.**

392. Every one who, directly or indirectly, by himself or by any other person on his behalf, makes use of, or threatens to make use of any force, violence or restraint, or inflicts or threatens infliction, by himself, or by or through any other person, of any

<sup>1</sup> Edition by Ed. Fabre Surveyer, K.C., 1912.

injury, damage, harm or loss, or in any manner practices intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting or on account of such person having voted or refrained from voting at any election,—or who, by abduction, duress or any fraudulent device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of any elector, or thereby compels, induces or prevails upon any elector either to give or refrain from giving his vote at any election, shall be deemed to have committed the offence of "undue influence," and shall, in addition to any penalty thereby incurred, forfeit the sum of two hundred dollars to any person who sues therefor, with costs.

#### Bureau of Statistics.

795a. In this section, unless the context otherwise requires:—

(a) The word "Minister" means the Provincial Secretary;

(b) The word "head" means the head of the Quebec Bureau of Statistics;

(c) The word "Bureau" means the Quebec Bureau of Statistics. 1912, second session, c. 16, s. 1, part.

795b. There shall be established under the authority of the Provincial Secretary a permanent bureau called "The Quebec Bureau of Statistics," and the Lieutenant-Governor in Council may appoint, for the good administration of this service, a head of the bureau and the other necessary officers, clerks and employees whose duty it shall be, under the direction of the Minister, to carry out the provisions of this section and to perform such other duties as may be assigned to them from time to time by the Lieutenant-Governor in Council. 1912, second session, c. 16, s. 1, part.

795c. The Minister may also employ, from time to time, such employees or other persons as may be necessary to collect for the bureau the statistics and information which he may think useful to the public. 1912, second session, c. 16, s. 1, part.

795d. Under the direction of the Minister, the head of the bureau shall collect, condense and tabulate useful statistics and information respecting this province, and more particularly respecting education, industry, commerce, agriculture, population, colonization, the natural products of the soil and generally respecting everything which concerns the province and is of public interest. 1912, Second Session, c. 16, s. 1, part.

795e. Whenever it appears to the Minister that the statistics and information collected and condensed are sufficiently important and reliable to make the publication thereof useful, he shall have them published in the manner and form prescribed by the Lieutenant-Governor in Council.

Neither the Lieutenant-Governor in Council nor the Minister, in the exercise of the powers conferred by this section, shall discriminate between any persons or companies to the prejudice of any of them. 1912, second session, c. 16, s. 1, part.

795f. The public officers or employees under the control of the Government of the province, or under the control of a municipality, or of a school board or of a society, association or corporation constituted in virtue of a law in force in this province, or receiving a subsidy from the Government of this province, and all persons so subsidized, shall answer promptly all official communications from the bureau and collect and correctly classify the facts or statistics called for by the bureau. 1912, second session, c. 16, s. 1, part.

795g. Any person mentioned in article 795f who wilfully gives false information or refuses or neglects to answer a question authorized by this section, or to collect, classify or deliver the statistics which it is in his power to collect, classify or deliver, when he has been duly called upon so to do by the Minister or by the head of the bureau, shall be liable for each offence, to a fine of not more than fifty dollars. 1912, second session, c. 16, s. 1, part.

795h. The Minister with the consent of the Lieutenant-Governor in Council, may make all arrangements which he may think useful to establish a system of exchange of information or statistics between the Government of Canada or one or more of its departments and the bureau. 1912, second session, c. 16, s. 1, part.

#### Sale of Intoxicants near Mines.

1004. The Lieutenant-Governor in Council may, by proclamation issued and published for that purpose in the usual manner, when mines are in operation and when the public interest requires the same, declare that the first division of this subsection shall apply to any or all mining divisions of the province or to any part thereof; and, after such proclamation, whosoever, in such mining division or part thereof, sells or exchanges any intoxicating liquors, within a radius of five miles from any mine that is being worked, without having first obtained a license for that purpose, from the inspector of the division, under the Mining Act, shall be liable to the following penalties, to wit: for a first offence, a fine of not less than seventy and not more than one hundred dollars; for a second offence a fine of two hundred dollars, and, in either case, in default of payment, to imprisonment for three months, and for a third or any subsequent offence, to imprisonment for three months without the option of a fine.

### Cashing of Pay Cheques in Hotels Prohibited.

1023. Every person holding either a hotel or a restaurant license, who cashes or exchanges for money, any employer's certificate of wages or pay cheques, shall incur for each offence a fine of twenty dollars, and in default of payment, imprisonment for one month.

### Employment of Women and Minors in Bar Rooms.

1049. No person under eighteen years of age shall act as bar-tender in any establishment licensed under this section, and any person offending against this article shall incur for each offence a penalty of not less than ten dollars nor more than twenty-five dollars, and the employer of such bar-tender shall incur for each offence a penalty of not less than fifty dollars nor more than seventy-five dollars.

1050. No female, not being the wife of the tavern, inn or restaurant keeper, shall act as bar-maid or be employed to serve or wait upon the guests or the public in the bar-room of any tavern, inn or restaurant licensed under this section.

### Regulation of Storage, Sale and Transportation of Explosives.

1267. The word "powder" means every explosive substance, whether powder for cannon, or gunpowder, or mining powder, or other powder, or nitro-glycerine, or any other substance of that nature, however prepared or offered for sale, either loose or in barrels or otherwise, or when combined in any quantity whatever in an article of commerce, as cartridges, fire-crackers, fire-works, rockets or other things.

1268. The word "powder-magazine" means every building used for the storage or keeping of any quantity of powder, more than twenty-five pounds in weight.

1269. Every person keeping a magazine for the storage of powder, or who sells and holds for sale any quantity of powder, must obtain from the collector of provincial revenue a license to that effect.

1270. Powder-magazines shall be constructed in the manner and at the places determined for each such magazine by the Lieutenant-Governor in Council, with the consent of the council and no license shall be granted for keeping a powder magazine unless such magazine be constructed in conformity with an order of the Lieutenant-Governor in Council.

Before the renewal in any year of a powder-magazine license, issued in accordance with article 1269, the magazine for which such license is sought shall be inspected by an inspector appointed by the Government, the cost of such inspection to be paid by the owner of such magazine. The renewal of the license shall be in the discretion of the Provincial Treasurer.

1271. A municipal council desiring, for valid reasons, the removal, from within its limits or from one part of its territory to another, of an existing powder-magazine, shall have the right to obtain such removal upon payment to the company or person owning the magazine, of an indemnity to be determined by arbitrators appointed by the interested parties, subject to the decision of the Provincial Treasurer.

1272. Any person who keeps or makes use of a powder-magazine for the storage of powder, without a license, shall be liable to a penal prosecution under which he may be condemned to a fine of five hundred dollars, for all offences against this article committed up to the time of the institution of such prosecution, if it is the first offence, and, in case of a repetition of the offence, he may be again prosecuted and condemned to pay a like fine of five hundred dollars, for all offences committed in the interval between the first prosecution and the second, and so on from one prosecution to another.

1273. No person shall keep for his own use, and not for sale or storage, in any building other than a powder-magazine, any quantity of powder weighing more than ten pounds; and in keeping it he shall store it in a metal box or case, at a sufficient distance from all inflammatory agents, such as a lamp, candle, light, gas, stove-pipe, hearth or fire, (which enumeration is not exhaustive), or otherwise he shall be liable to a penal prosecution, in which he may be condemned to the payment of a fine of not less than thirty dollars nor more than one hundred dollars for each offence, in the discretion of the court.

1274. Nothing in this section shall apply to the powder-magazines of His Majesty, nor affect the transportation, by the troops of His Majesty on military service, of munitions of war, going into or coming from powder-magazines of His Majesty.

1275. Every person, who sells or keeps for sale, whether by wholesale or retail, any quantity of powder, without having obtained a license for that purpose, shall be liable to a fine, in the discretion of the court, of not less than ten dollars nor more than sixty dollars for each sale, and to a similar penalty for keeping powder for sale.

1276. Every person keeping powder for sale shall at all times render conspicuous the part or parts of the building where the powder is lodged, and shall keep placed, above the entry of such building, a sign bearing the words: "Licensed to sell Powder,"

under a penalty of a fine of five dollars for each week during which he offends against this article.

1277. The Lieutenant-Governor in Council may, from time to time, make the necessary regulations, conformably to the provisions of this section, for the reception, transportation, storage and delivery of powder.

1278. No quantity of powder shall be stored, kept, removed, received or delivered, except in conformity with the provisions of this section, and the regulations made or which shall be made by virtue of article 1277.

1279. Such regulations may impose penalties for every infraction or for all infractions of the provisions of this section relative to powder, for which no penalty has been imposed.

1280. Every proprietor or lessee of any powder-magazine shall be personally liable for all the penalties imposed for the contravention of any regulations made by virtue of this section, respecting the removal of powder coming from or going to such powder-magazines.

1281. The Lieutenant-Governor in Council may, through any official or such person as he may name for that purpose, acquire from the Government of Canada or from any person or he may cause to be built, one or several powder-magazines within this province.

1282. The Lieutenant-Governor in Council may also appoint or employ the officials or persons he deems necessary for the care, maintenance and the general service of every powder-magazine, with such remuneration as he considers reasonable.

1283. Such powder-magazines may be kept and guarded, for the benefit of the province, by the officials or persons mentioned in article 1282, or may be leased to private persons or to companies, on the conditions and in the manner determined by the Lieutenant-Governor in Council, in both cases in conformity with the provisions of this section.

1284. The rates which may be demanded and received for the storage of powder in such magazines, shall be fixed by the Lieutenant-Governor in Council.

1285. The Lieutenant-Governor in Council may, on such terms and conditions as he deems fit, authorize the Provincial Treasurer to pay a subsidy to one or more persons to assist in the construction of any powder-magazine near to, but more than five miles from the cities of Quebec and Montreal, erected under the provisions of this section; provided that such subsidy shall not exceed one-third of the price of the powder-magazine, and that the plans, specifications, demand of tenders and the contract for such building, have been previously approved of by the Minister of Public Works and Labour.

1286. The Lieutenant-Governor in Council may, from time to time, but on the conditions and under the regulations he deems fit, permit the storage of powder in quantities exceeding one hundred pounds in the vicinity of public works, railways, canals or other similar works of a public nature or in the country parts generally, and exempt such storage, in the case of each of such works, from the provisions or any of the provisions of this section.

1287. The Lieutenant-Governor in Council may, on such conditions and under such regulations as he deems fit, permit the storage of gunpowder and other explosives in the vicinity of any quarry, although the same may be near to cities or towns.

1288. All provisions of the Municipal Code, whereby any municipalities are empowered to regulate the storage of gunpowder or any other matter, shall apply only in so far as such storage or such other matter is not, or shall not, at any time hereafter, be regulated by this section or by any regulations made in virtue thereof.

#### Licensing of Public Laundries.

1299a. The words "public laundry" mean, for the purposes of this subsection 11a, any shop, dwelling or building whatsoever in which linen, brought or sent there by the public, is washed or ironed for a profit.

The words "public laundry," however, do not include the shop, dwelling or building of a laundress who, either alone or with members of her family, washes or irons therein, for a profit, linen brought or sent there by the public, nor the shops, dwellings or buildings occupied by charitable religious communities or by incorporated companies paying the provincial tax on corporations, and in which linen, brought or sent there by the public, is washed or ironed for a profit.

The corporations mentioned in this article, and which pay the provincial corporation tax, are exempt from the application of this subsection only if the taxes paid each year, under article 1345 and following, equal or exceed the fees and duties which might be exacted under this subsection. 1915, c. 22, s. 2, part.

1299b. In order to obtain a license to carry on or keep a public laundry, the applicant must pay the proper collector of provincial revenue, besides the duties set forth in the tariff hereinafter mentioned, a fee of five dollars, three dollars whereof shall

be transmitted to the Provincial Treasurer, and two dollars kept by the collector. 1915, c. 22, s. 2, part.

1299c. 1. Every person to whom this subsection 11a applies must show his license to any proper collector of provincial revenue or to any person authorized in writing by such collector of provincial revenue, and in default of so doing shall be deemed to have no license, and shall be punishable accordingly. 1915, c. 22, s. 2, part.

2. No person, holding a license as aforesaid, shall lend or lease his license to any other person, or traffic with such license, under penalty of a fine of not more than one hundred dollars for each offence, and, in default of payment of the fine and costs, to imprisonment for one month. 1915, c. 22, s. 2, part.

1299d. Any person who carries on or keeps a public laundry within the meaning of this subsection 11a, without having a license therefor in force, shall be liable to a fine of not less than thirty dollars and not more than two hundred dollars for each offence, and, in default of payment of the fine and costs, to imprisonment for two months. 1915, c. 22, s. 2, part.

#### **Sale of Intoxicants near Public Works.**

1334. 1. No person shall barter, sell, exchange or dispose of, directly or indirectly, to any other person, any intoxicating liquor, or shall expose, keep or have in his possession for sale, barter or exchange, any intoxicating liquor, at any place, not within any city, town, or village, and being within three miles of the line of any railway, canal, or other public work in process of construction, whether such work is constructed by the Government of this Province, or by any incorporated company, or by private enterprise.

2. No person shall obtain or receive a license to sell any intoxicating liquor at any such place as aforesaid, and any such license if granted shall be null.

3. If any doubt at any time arises, as to whether any work then in progress does or does not come within the meaning of this section, the Lieutenant-Governor, if he sees fit, may declare by proclamation that such work is within the meaning of this section and that the prohibition herein contained applies to any place within three miles of the line thereof, which line may be described and defined in such proclamation.

The declaration contained in such proclamation shall have the like force as if contained in this section and the said prohibition shall apply accordingly.

4. Nothing in such declaration shall be construed as a declaration that such work or any part thereof was not within the meaning of this section before the issuing of such proclamation, but the question whether it was or was not, shall be decided as if such proclamation had not issued.

5. This section shall not extend to any licensed distiller or brewer selling intoxicating liquors by wholesale, and not retailing the same.

1335. 1. Any person, who, in contravention of this section, by himself, his clerk, servant or agent, exposes or keeps for sale or barter, or sells, disposes of, gives or exchanges for any other matter or thing, to any other person any intoxicating liquor, shall be liable to a fine of twenty dollars on the first conviction, forty dollars on the second, and on the third and every subsequent conviction to such last mentioned fine and to imprisonment for not more than six months.

Such fine shall be paid over to the clerk or secretary-treasurer of the municipality in which the offence is proved to have been committed, for the use of the municipality and to be applied to such public purposes as the council thereof may direct.

2. In default of payment at the time of conviction, of any fine and costs imposed under this section, with the costs of prosecution, the offender shall be imprisoned until the same be paid under warrant of the justice, warden, mayor, police magistrate, recorder or judge before whom the conviction is had; but no person shall be imprisoned for any separate offence under this section for more than six months.

3. Any clerk, servant or agent, or other person in the employment or on the premises of another, who sells, disposes of, or exchanges for any other matter or thing, or assists in selling, disposing of, or exchanging, for any other matter or thing, any intoxicating liquor, in contravention of this section, for the person in whose service or on whose premises he is, is equally guilty with the principal and shall be liable to the like penalty.

#### **Registration and Licensing of Chauffeurs.**

1333. The owner of a motor vehicle who resides in any other province of Canada shall not be obliged to register such vehicle under this section before using the same in this Province, provided such vehicle bears a number indicating registration elsewhere.

1339. 1. Every person who desires to operate a motor vehicle otherwise than as a chauffeur, must previously obtain an operator's license valid for one year, for which

he shall apply to the Provincial Treasurer, which shall be issued to him in such manner and form as the Provincial Treasurer may determine.

2. Before an operator's license is granted, the applicant shall present such evidence of his qualifications as may be required by the Provincial Treasurer.

3. No operator's or chauffeur's license shall be issued to any person under eighteen years of age. 1911, c. 16, s. 5.

1400. Every person who desires to operate a motor vehicle as a chauffeur must previously obtain a chauffeur's license.

For that purpose he shall file in the Treasury Department on a blank to be furnished to him from the said Department, a statement which shall include his name and address, and the trade name and motive power of the vehicle which he is able to operate. Such statement shall be filed and recorded in the Department, and a number shall be assigned to such chauffeur. The Provincial Treasurer shall thereupon issue to the applicant a chauffeur's license and shall deliver to him a metal badge of such size and dimensions as he may select, with the words: "Registered Chauffeur No. ...., Quebec," stamped or painted thereon, which badge shall be at all times worn by such chauffeur when operating a motor vehicle on the public roads, under the penalty hereinafter provided.

1401. No such chauffeur's license shall be granted before the applicant has given such proof of his qualifications thereupon as may be required by the Provincial Treasurer.<sup>1</sup>

1402. 1. Each operator's or chauffeur's license shall expire on the first day of April in each year, and shall be renewable at that date. The fee for each such license and renewal thereof shall be five dollars, the amount of said fee to be sent in with the application.

Every holder of a license under this section must carry his license with him when operating a motor vehicle.

2. The Provincial Treasurer may, at any time, suspend or revoke any license for any violation of this section or any of the regulations made thereunder.

1402a. The provisions of article 1393 respecting the exemptions and privileges of non-residents with respect to registration apply equally to the issue of licenses to non-residents. 1911, c. 16, s. 6.

#### Offences.

1403. The refusal by any operator or chauffeur to exhibit his license or certificate of registration when called upon so to do by an authorized representative of the Provincial Treasurer, is an offence against this section.

1404. No person whose certificate of registration or license to operate has been suspended or revoked, shall operate a motor vehicle thereafter in this province while such suspension or revocation remains in force; and any person convicted of so doing and any person convicted of operating or causing or permitting any other person to operate a motor vehicle after the certificate of registration for such vehicle has been suspended or revoked, shall be punished by a fine not exceeding one hundred dollars or by imprisonment for ten days, or by both such fine and imprisonment.

1405. Any offence against this section or the regulations made thereunder, not specially provided for, shall render the guilty party liable, upon an action taken before the Circuit Court or magistrate's court or on conviction before a justice of the peace, for the first offence to a fine of not less than twenty dollars nor more than one hundred dollars and, in default of payment, to imprisonment for not more than one month, or to both, and for a second or every subsequent offence to a fine of from one hundred to two hundred dollars, and, in default of payment to imprisonment for not more than two months. 1911, c. 16, s. 7.

#### Prison Labour.

1512. 1. The Lieutenant-Governor in Council may, from time to time, direct or authorize the employment, upon any specific work or duty, within or without the limits of any common gaol, of any prisoner who, after a prior sentence of imprisonment for any breach of any law of Canada or of any province, is sentenced to be imprisoned, with hard labour, in such gaol, for breach of the laws of Canada or of this province, or for breach of the by-laws of any municipal corporation in this province.

2. First offenders are also governed by paragraph 1 of this article, provided that the specific work or duty to be done or performed be within the limits of the gaol.

3. Prisoners condemned to imprisonment, by judgments which make no mention of hard labour, may also do or perform the specific work or duty mentioned in paragraph 1 of this article, provided they consent thereto and that the gaoler sees no objection.

<sup>1</sup> The Regulations issued under Article 1432 include a requirement that applicants for licenses must file with the license issuer certificates of competency from an authorized examiner, and references as to character. The regulations also contain provisions respecting examinations.



### Inspection and Regulation of Mines.

2177. The Lieutenant-Governor in Council may, on the recommendation of the Minister, appoint any police force and all inspectors, policemen and other officers (except constables) deemed necessary for the carrying out of this section, fix their rank and salaries and prescribe their duties not herein prescribed.

2178. The inspectors must be mining engineers, possessing sufficient knowledge of mineralogy and metallurgy, and who have practised their profession for at least five years.

2189. Every inspector, constable or peace officer, in a mining division, may, at any time, enter upon private or public lands that are being mined in the said division, and examine the pits, shafts, tunnels, subterranean passages or other mining works or excavations constructed or commenced in any manner whatsoever, and require from the proprietors of such pits, shafts, tunnels and other mining works, and from their employees, all the facilities and assistance necessary for that purpose.

2190. No inspector of a mining division shall, under the penalties mentioned in article 2204, at any time, either directly or indirectly, so long as he is in office, take any share, in his own name, or in the name of another for him, in the working of any mines in the mining division for which he has been appointed.

2193. Every person who, in contravention of article 2212, by himself or his agents, employs a woman or a girl, or a male child in the working of such mine, is liable to a fine not exceeding twenty dollars for each offence and the costs, and, in default of payment, to imprisonment not exceeding one month.

### Riots in the Neighborhood of Mines.

2209. The Lieutenant-Governor in Council may, by proclamation, whenever he thinks necessary, declare that section twelfth of chapter ninth of title fourth of these Revised Statutes (articles 2451 to 2467 both inclusive), respecting riots near public works, shall apply to one or more mining divisions, in so far as its provisions may be applicable; and the said section shall have force of law from and after the date of such proclamation, in the mining division or divisions mentioned in the proclamation.

2210. The Lieutenant-Governor in Council may, in the same manner, from time to time, declare the said section to be no longer in force in such mining division or divisions, and again put the same in force when he thinks advisable.

2211. No such proclamation shall have any effect within the limits of a city.

### Protection of Workmen in Mines.

2212. 1. No woman or girl shall be employed in the working of a mine.

2. No male child under fifteen years shall be employed in the underground works of any mine or quarry.

3. No male child of fifteen years but under seventeen years shall be employed in a mine as above, more than forty-eight hours per week, such week being considered as beginning at midnight on Sunday and ending at midnight on the following Saturday.

4. No male child under twenty years shall be employed in working machinery in or near a mine, with the exception of machinery put in motion by horses or other animals, in which case their driver may be sixteen years of age.

2213. Every proprietor of a mine in operation, who, by himself or his agents, offends against article 2212, is subject to the penalties mentioned in article 2193.

2213a. If while a mine or a quarry is being worked, an accident takes place resulting in loss of life or serious injury, the person working the same or his representative at such mine or quarry, shall forthwith send a written notice to the Minister, specifying the nature of the accident, the number of persons killed or injured and their names if they are known.

Every person not complying with the requirements of this article, shall be liable to the penalties provided in article 2207. 1911, c. 23, s. 8.

2214. Regulations may be made by the Lieutenant-Governor in Council, respecting the sanitary condition and safety of the works in mines, so as to protect the life and health of the workmen therein employed.

Such regulations, after their publication in the "Quebec Official Gazette," shall become law, and a copy of the same shall be posted up in the most conspicuous places of the mine, in conformity with the instructions of the mining inspector.<sup>1</sup>

2214a. It shall be the duty of the inspector to make such inspections of mines, quarries and workshops for the reduction of minerals as may be necessary to ensure the observance of all regulations made under article 2214.

The inspector shall have power, further, to order any owner of a mine or his agents, to have remedied within a certain lapse of time specified by such inspector, any

<sup>1</sup> Since provisions corresponding to those contained in the regulations issued under this article appear in the Mines Acts of the other provinces, the text of the regulations in question is reproduced below.

state of affairs or any practices which he may consider bad or dangerous in the working of any mine, quarry or workshop for reducing mineral.

Any failure to obey such notice within the time specified shall be an offence punishable by the penalties provided by article 2207. 1914, c. 20, s. 6.

2215. Every three months, the inspector shall make a report to the Minister with respect to the fulfilment of the provisions of this subsection within the limits of his mining division.

#### Sale of Intoxicating Liquors Near Mines in Operation.

2216. The sale or exchange of intoxicating liquors, within a radius of seven miles from any mine in operation, is prohibited unless a license to that effect has been obtained from the inspector of the mining division, in conformity with section fourteenth of chapter fifth of title fourth of these Revised Statutes (articles 903 to 1315 both inclusive), under the penalties set forth in articles 1004 and following.

2217. The inspector of a division shall have the supervision of those who sell intoxicating liquors therein; and he alone may refuse or grant such licenses and cancel the same within such radius of seven miles.

#### REGULATIONS IN OPERATION OF MINES.

Whereas under article 2214 of the R.S.P.Q., 1909, regulations may be made by the Lieutenant-Governor in Council, respecting the sanitary condition and safety of the works in mines, so as to protect the life and health of the workmen therein employed.

It is ordered that under the authority of the aforesaid article 2214 of the R.S.P.Q., 1909, it be ruled and enacted as follows:—

When persons employed in the working of mines are hoisted, or lowered by means of a steam or electric hoist, this hoist shall not be in charge of a person of less than twenty years of age.

The storing of explosives shall be made in magazines or powder-houses, built to the satisfaction of the Inspector of Mines. Such magazines shall not be built nearer than four hundred feet from the mine or works, or from any public highway, without a special authorization from the Inspector of Mines.

Only implements of wood, brass or copper shall be used in opening cases containing explosives.

Blasting caps, detonators or fulminates of any sort shall in no case be kept or stored with the explosives.

In underground workings, no supply greater than that necessary for the next twenty-four hours shall be kept, and this supply shall be stored in wooden boxes, in a part of the mine not less than 100 feet distant from all drilling or mining work. Such supply shall be in charge of an experienced man, who will apportion the explosives as they are needed.

In charging holes, no iron or metal tools shall be used for tamping.

When the enclosing rocks are not safe, shafts, winzes, level and other underground workings in use shall be suitably timbered, cased or lined, or otherwise made secure.

The ladder in shaft or winze shall be in lengths not exceeding 25 feet each, with platforms at each of these intervals. These platforms shall be closely covered, with the exception of an opening just large enough to permit the passage of a man's body, so arranged that it would not be possible for a person to fall through this opening from one ladder-length to the one below.

The ladder way shall be encased by a closely boarded partition, separating it completely from the compartment of the shaft used for hoisting the material.

No person shall be hoisted or lowered by means of buckets or skips without vertical guides.

The Inspector of Mines has full authority to enforce the above regulations, or to exercise such other powers as he may judge necessary to ensure the safety and protection of miners and other persons employed in or about mines, mills or smelters.

Non compliance, on the part of mine-owners or their agents, with any rule contained in these regulations, shall be deemed an offence subject to penalties mentioned in article 2207 of the Revised Statutes of the province of Quebec.

The walls, roofs of shafts, levels, stopes, tunnels, raises and other underground parts of mine workings, the sides and walls of open-cast pits, quarries, sand and clay pits, and all other workings of mines and prospects, must be scaled and freed of loose or fissured rocks and stones, so as to ensure the safety of the workmen.

All firing of blasts in the course of shaft sinking shall be done by means of electric current.

A charge of explosives, whether it is a missed hole or a charge which has not been fired, shall not be withdrawn.

#### Department of Public Works and Labour.

2361. The Minister of Public Works and Labour, in this Chapter called the "Minister," has the administration and direction of the Department of Public Works and Labour.

2362. The functions, powers and duties of the Minister are the following:

1. He has the management, custody and control of all public works, immovables and public buildings belonging to the province, and all buildings destined for the residence of the Lieutenant Governor or for offices for the public departments;

2. He exercises control over the property of all railways built or subsidized by the Government in virtue of provincial laws, and over the works connected therewith or dependencies thereof;

3. He has the management and control of the construction, maintenance and repair of the public buildings, bridges, roads, drainage or other public works in process of construction or maintained wholly or in part at the expense of the province;

4. [Repealed 1912, second session, c. 16, s. 2].

5. He institutes and controls inquiries into important industrial questions and those relating to manufactures, and may collect useful facts and statistics relating thereto, and transmit the same to the Quebec Bureau of Statistics. 1912, second session, c. 16, s. 2.

6. He has the supervision of and control over all proceedings under the Quebec Trade Disputes' Act;

7. He further has control over all other works undertaken at the expense of the province and all immovables acquired by the Government of the Province, which the Lieutenant-Governor in Council declares by proclamation to be subject to the provisions of this chapter.

8. The Council of Arts and Manufactures and Mechanics' Institutes are under his control.

2363. The Minister shall, within ten days after the opening of each session thereof, submit to the Legislature a detailed report of his proceedings.

2364. 1. The Lieutenant-Governor in Council shall appoint a Deputy Minister of Public Works and Labour, in this chapter called the "Deputy Minister."

2. He shall further appoint an engineer, a secretary and an accountant and all the other officers, clerks and messengers necessary for the proper administration of the Department.

These officers, to each of whom the Lieutenant-Governor in Council assigns his duties, shall hold office during pleasure.

3. He may also, from time to time, appoint outside of the department, as many engineers, superintendents of works and other officers as he may deem necessary for the efficiency of the service in the various branches of the department and may remove them from office at pleasure.

2365. The duties of the officers of the department, not expressly regulated by law, shall, from time to time, be assigned to them by the Minister.

2366. Public institutions and public officers in this province shall promptly answer official communications from the department, and shall diligently endeavour to supply correct information on all questions submitted to them.

Any officer of any of the said institutions, refusing or wilfully neglecting to answer any questions or to furnish any information relating to the interest of mechanics or manufacturers, shall for every such offence incur a penalty of twenty dollars, which shall be recoverable in the name of His Majesty before any competent court.

#### Peace Preservation on Public Works.

2451. In this section the word "weapon" includes every kind of weapon, arms or ammunition enumerated in article 2453.

2452. The Lieutenant-Governor in Council may declare by proclamation that this section shall be in force in any place in this province within which any canal or other provincial public work, or any canal, railway or other work undertaken or carried on by any incorporated company under authority of any act of the Legislature, is in process of construction, or any such designated places as are in the vicinity of any such locality.

This section shall, upon and after the day named in any such proclamation, take effect within the places designated in such proclamation.

The Lieutenant-Governor in Council may, in like manner, from time to time, declare this section to be no longer in force in any such places, and he may again declare the same to be in force in any such place or places.

No such proclamation shall have any effect within any city.

2453. Upon and after the day to be fixed in such proclamation, no person employed in or upon any such canal, railway or other work as aforesaid, within the limits specified in such proclamation, shall keep or have in his possession or under his care or control, within such limits, any gun, pistol, or other firearm, or any stock, lock, barrel, or any other part of such gun, pistol, or other firearm, or any bullets, sword, sword-blade, bayonet, pike, pike-head, spear, spear-head, dirk, dagger, or other instrument intended for cutting or stabbing, or other arms or ammunition, or weapon of war, under a penalty of not less than two dollars, or more than four dollars for every such weapon found in his possession.

2454. Within the time appointed as aforesaid in such proclamation, every person employed in or upon the canal, railway or other work to which the same relates, shall bring and deliver up to some justice of the peace or commissioner appointed by the Lieutenant-Governor in Council for the purposes of this section, every such weapon in his possession, and shall obtain from such justice of the peace or commissioner a receipt for the same.

2455. When this section ceases to be in force within the place where any weapon has been delivered and detained in pursuance thereof, or, when the owner or person lawfully entitled to any such weapon, satisfies the justice of the peace or commissioner that he is about to remove immediately from the limits within which this section is at the time in force, the justice of the peace or commissioner may deliver up to the owner or person authorized to receive the same any such weapon, on production of the receipt so given for it.

2456. Every such weapon found in the possession of any person employed as aforesaid, after the day named in any proclamation as that on or before which such weapon ought to be delivered up, and within the limits or locality set forth in the proclamation bringing this section into force, shall be liable to be seized, and being seized by and justice of the peace, commissioner, constable or other peace officer, shall be forfeited to the use of His Majesty.

2457. Any person, who for the purpose of defeating this section, receives or conceals or aids in receiving or concealing, or procures to be received or concealed, within the limits within which this section is at the time in force, any such weapon as aforesaid belonging to or in the custody of any person employed on any such canal, railway or other work, shall forfeit a sum of not less than forty dollars or more than one hundred dollars, one-half to belong to the informer, and the other half to His Majesty.

2458. Any justice of the peace, or any commissioner appointed under this section, having authority within the place where this section is at the time in force, upon the oath of a credible witness that he believes that any such weapon as aforesaid is in the possession of any person contrary to the provisions of this section, or in any house or place, may issue his warrant to any constable or peace officer to search for and seize the same, and he or any person assisting him, may search for and seize the same in possession of any person, or in any such house or place.

If admission to any such house or place cannot be obtained within a reasonable time after demand, such constable and peace officer and person assisting, may enter the same by force, by day or by night, and seize such weapon.

Unless the person within whose possession or in whose house or place the same has been found, does, within four days next after the seizure, prove to the satisfaction of such justice of the peace or commissioner that the weapon so seized was not in his possession or in his house or place contrary to the meaning of this section, such weapon shall be forfeited to the use of His Majesty.

Any commissioner or justice of the peace, constable or peace officer, or any person acting under a warrant in aid of any constable or peace officer, may arrest and detain any person employed on any public work, found carrying any weapon within any place in which this section is at the time in force, at such a time and in such manner as, in the judgment of such commissioner, justice of the peace, constable or peace officer, or person acting under a warrant, affords just cause of suspicion that it is carried for purposes dangerous to the public peace.

2459. Every such justice of the peace or commissioner shall make a monthly return to the Provincial Secretary of all weapons delivered to him, and detained by him under this section.

2460. All weapons declared forfeited under this section, shall be sold under the direction of the justice of the peace or commissioner by whom or by whose authority the same were seized, and the proceeds of such sale, after deducting necessary expenses, shall be received by such justice or commissioner and paid over by him to the Provincial Treasurer for the use of the province.

2461. Any action brought against any justice of the peace or commissioner, constable, peace officer, or other person, for anything done in pursuance of this section, must be commenced within six months next after the doing of such thing.

The action shall be instituted in the district where the thing was done.

The defendant may plead the general issue and give this section and the special matter in evidence.

If such action is discontinued or dismissed after the defendant has appeared, the defendant shall be entitled to recover double costs.

2462. All penalties, imposed by this section, may be recovered before any two justices of the peace acting for the district or county within which the offence, in respect of which such penalty is sought to be recovered, was committed.

Such justices shall, on complaint on oath of such offence, issue their warrant for bringing the offender before them, and shall thereupon hear the complaint and adjudge upon the same.

If the offender is convicted on the oath of one witness other than the informer, or by his own confession, the justices shall impose such penalty.

2463. For better carrying this section into effect, the Lieutenant-Governor in Council may cause a body of men, not exceeding one hundred inclusive of officers, and to be called the "Mounted Police Force," to be raised, mounted, armed and equipped, and to be placed under the command of such officers as the Lieutenant-Governor in Council deems necessary.

He may cause such police force or any portion thereof, to be employed in any place in which this section is then in force, under such orders and regulations as the Lieutenant-Governor in Council shall, from time to time, issue.

2464. The Lieutenant-Governor in Council may appoint the chief officer and such of the subordinate officers of the said mounted police force and such other persons as he deems necessary, to be respectively justices of the peace for the purposes of this section within any of the places in which this section is in force.

Such officers and persons respectively may act as justices of the peace although they may not have the property qualifications required of other persons.

2465. The men in such mounted police force shall be constables and peace officers, for the purposes of this section, for the district or county in which they are employed for the time being.

2466. The expense of carrying this section into effect, upon or near public provincial works shall be paid through the Minister out of the moneys appropriated for the work on which such expenses are incurred, and shall be charged as part of the cost of such work.

The sum to be so charged against each work shall be proportionate to the number of policemen employed on such work and the time during which they are so employed; but the sum so expended in any one year, shall not exceed forty thousand dollars.

2467. The expenses attending the employment of any police force in any place in or in the vicinity whereof any railway, canal or work undertaken and carried on by any such incorporated company as aforesaid is in process of construction, shall be, in the first instance, paid by the Lieutenant-Governor out of the consolidated revenue fund, and shall, on demand, be repaid to the Provincial Treasurer by such incorporated company, or, if not so repaid, may be recovered from the company as a debt due to the crown; and, when recovered, shall form part of the said consolidated revenue fund.

#### Vocational Training—Instruction of Mechanics.

2468. The Council of Arts and Manufactures consists of seventeen members appointed by the Lieutenant-Governor in Council.

The Minister of Public Works and Labour, the Provincial Secretary and the Superintendent of Public Instruction, are *ex-officio* members of the council.

2481. It is the duty of the Council:

1. To take measures, with the approval of the minister, to collect and establish, at Montreal and elsewhere, for the instruction of practical mechanics and manufacturers, museums or minerals and other materials, substances, and chemical compositions capable of being used in mechanical arts and manufactures, with model rooms appropriately stocked and supplied with models of works of art, implements, mechanisms and machines of any kind (except those adapted to facilitate agricultural operations), and free libraries containing books of reference, plans and drawings, calculated to impart useful information in connection with mechanical arts and manufactures;

2. To take measures to obtain from foreign countries new or improved implements and machines, (not being agricultural implements, or machines specially adapted to facilitate agricultural operations), and to test the quality, value and usefulness of such implements and machines;

3. To co-operate with the Council of Agriculture at provincial exhibitions.

The officers of the Council of Arts and Manufactures, or such other members as may be appointed by the Council for that purpose, shall have the management of and responsibility for the mechanical and manufacturing portion of such exhibitions;

4. To adopt, with the approval of the Lieutenant-Governor in Council, jointly with the federal authorities, the measures necessary for the most advantageous display of the arts and manufactures of this province at all foreign exhibitions or at all general exhibitions of the Dominion of Canada;

5. To make rules and regulations for the establishment, management, administration, and carrying on of a system for the teaching of drawing in all its branches in the schools under the control of school commissioners and trustees, in conformity with the provisions of the law respecting public instruction;

6. Generally, to adopt every means in its power to promote improvement in the mechanical arts and manufactures in this province.

2482. The Council may, with the consent and approval of the Minister, establish, in connection with its museums, model-rooms or libraries, schools of design furnished and equipped as completely and suitably as the funds at its disposal permit, regard being had to the claims thereon of the objects for which it is established.

2483. The Council may also found schools or colleges for mechanics, and employ competent persons to deliver lectures on subjects connected with arts, mechanical sciences and manufactures.

2484. The Council shall keep records of its transactions and shall, from time to time, publish in such manner, and form as to secure the widest circulation among mechanics' institutes and mechanics, artisans and manufacturers generally, all such reports, essays, lectures and other literary compositions conveying useful information, as the Council may judge suitable for publication.

### Industrial Disputes—Arbitration and Conciliation.

2489. This section may be cited as the "Quebec Trade Disputes' Act."

2490. In this section the word "employer" means any person or body of persons, incorporated or unincorporated, employing not less than ten workmen in the same business; the word "employee" means any person in the employment of an employer, as defined by this article.

2491. A claim or dispute under this section shall include any of the following matters as to which there is a disagreement between any employer and his employees:

(a) The price to be paid for work done, or in course of being done, whether such disagreement has arisen with respect to wages, or to the hours or times of working;

(b) Damage done to work, delay in finishing the same, not finishing the same in a good and workmanlike manner or according to agreement, or the nature and quality of materials supplied to employees;

(c) The price to be paid for extracting any mineral or other substance from a mine or quarry, or the allowances, if any, to be made for bands, refuse, faults or other causes whereby the extraction thereof is impeded;

(d) The performance or non-performance of any written or verbal stipulation or agreement;

(e) Insufficient or unwholesome food or stores supplied to employees, where there is an agreement to victual them or to supply them with provisions or stores of any kind;

(f) Ill-ventilated or dangerous places in mines, or insanitary rooms in which work is being performed, or want of necessary conveniences in connection with such rooms or places;

(g) The dismissal or employment under agreement of any employee or number of employees;

(h) The dismissal of an employee or employees for his or their connection with any trade or labour organization.

2492. No claim or dispute shall be referred to councils of conciliation or arbitration in any case in which there are less than ten employees interested in such claim or dispute.

2493. The Lieutenant-Governor in Council may appoint a Registrar of Councils of Conciliation and of Arbitration for the settlement of industrial disputes, chosen from among the persons performing other duties in the public service.

2494. The registrar shall:

1. Receive and register all applications by employers or employees or on their behalf for reference to a council of conciliation, or to a council of arbitration, of any dispute or claim within the meaning of this section;

2. Convene such councils for the purpose of taking into consideration and deciding any dispute or claim;

3. Keep a register in which shall be entered the particulars of all disputes and claims made to either of such councils, a summary of their proceedings and the original of their decisions;

4. Issue all notices in connection with the sittings of each such council;

5. Do all such other things as may be required to carry out this section, and perform all other duties prescribed by the Minister of Public Works and Labour.

2495. The registrar may issue all summonses to compel witnesses to attend to give evidence before a council of conciliation or a council of arbitration, or to produce any document in their possession or to do both.

2496. 1. Where a dispute exists or is apprehended between an employer or any class of employers and employees, or between different classes of employees, and the employees threaten to strike, or strike, or when an employer closes down or threatens to close down his works, the registrar shall, if thereto requested in writing by at least five employees or by the employer, or by the mayor of the municipality in which the dispute has arisen, visit the locality in which such dispute exists, and earnestly endeavour to act as mediator between the parties.

2. When it comes to the knowledge of the registrar, either from the newspapers or otherwise, that a dispute such as described in paragraph 1 of this article has arisen, he shall visit the locality in which such dispute has arisen, without awaiting a request in writing.



3. In the cases provided for in paragraphs 1 and 2 of this articles the registrar shall:

- (a) Inquire into the causes and circumstances of the dispute;
- (b) Take such steps, as he thinks fit, to induce the parties to meet and settle their disputes themselves;
- (c) Promote agreements between employers and employees to induce them to submit their disputes to a council of conciliation or arbitration, before having recourse to strikes or lock-outs.

4. The registrar shall report his proceedings under this article to the Minister within the shortest possible delay.

#### Councils of Conciliation.

2497. A council of conciliation for the purposes of any dispute or claim shall consist of four conciliators, two to be appointed by each of the parties to the dispute.

The appointment shall be in writing lodged with the registrar.

Either party may lodge such writing with the registrar at any time after the dispute has arisen; and, if only one of the parties has notified the registrar of the appointment of his conciliators, the registrar shall give notice to the other party of the notification which he has received.

Any vacancy in a council shall be filled by a person appointed by the party who appointed the conciliator to be replaced.

2498. The dispute or claim may be referred to a council of conciliation in the two following cases:—

1. If the parties to the dispute lodge an application therefor with the registrar. (Form B.)

2. If only one of the parties lodges the application. (Form C.)

2499. The registrar, on receipt of any such application from the parties or from one of them, shall lay the same before the council of conciliation constituted in the prescribed manner and he shall carry out all directions of the council given him to effect a settlement of the dispute or claim.

2500. Either party to the dispute or claim may be represented by one or more persons not exceeding three. Such party shall be bound by the acts of such representative or representatives. (Form D.)

2501. Where the party numbers less than twenty, the manager or managers must be authorized to act by a writing signed by all such persons and handed to the registrar.

Where the party numbers twenty or more, the manager or managers may be appointed or elected in such manner as such persons think proper.

A copy of the resolution (if any) electing the managers, together with a declaration by the chairman of the meeting (if any) stating it to have been carried, shall be given to the registrar and be kept as a record of the election.

2502. The parties to the dispute shall, if possible, draw up a joint written statement of their case; but if they do not agree thereupon, a statement in writing from each party shall be made.

The statement or statements shall be forwarded to the registrar before the meeting of the council.

2503. When the parties have appointed their conciliators, the registrar shall, by notice in writing, call a meeting of the conciliators at such time and place as he determines. (Form E.)

2504. After taking cognizance of the dispute and of the facts, hearing the parties and endeavouring to conciliate them, the council of conciliation shall forward to the registrar a report setting forth the result of its operations. (Forms F. and G.)

If such report is to the effect that the council has failed to bring about any settlement of the dispute, the registrar, on receipt of the report, shall forward a copy, certified by him, to each party to the dispute; whereupon either party may require the registrar to refer the dispute to a council of arbitration for settlement. (Forms H. and I.)

#### Councils of Arbitration.

2505. 1. Every council of arbitration, whose duty it is to take cognizance of a dispute, in virtue of this section, shall consist of three members, British subjects, appointed by the Minister.

2. One member shall be appointed on the recommendation of the employees, parties to the dispute, and another on the recommendation of the employer who is a party to the dispute (Form L.); such two members may, within ten days after their appointment, submit to the Minister the name of some impartial person to be the third member and president of the council (Form A.);

3. In case of the said two members failing so to do, the Minister shall appoint as president an experienced impartial person not personally connected with or interested



in any trade or industry, or likely by reason of his occupation, business vocation, or other influence, to be biased in favour of or against employers or employees.

2506. 1. Each member of the council shall remain in office from the time of his appointment, until the report of the council upon the matter with respect to which they have been appointed, has been signed and transmitted to the Minister;

2. Every vacancy in a council shall be filled in the same manner in which the person whose seat is vacant was originally appointed.

2507. Any dispute may be referred to a council of arbitration for trial and decision in the following cases:—

(a) On application, according to form I, to the registrar, by either party to a dispute or claim which, having been referred to a council of conciliation, has not been settled or adjusted by such council;

(b) On application, according to form H, to the registrar by both parties to the dispute or claim which has not been so referred to a council of conciliation.

2508. If, in either case mentioned in article 2507, the award of the council of arbitration is not complied with and carried out by the parties, or for any reason proves abortive, the parties to the reference or either of them shall not thereby be precluded from again referring the dispute to a council of conciliation.

2509. The members of a council of arbitration appointed in virtue of this section shall be paid for their services out of the consolidated revenue fund of the province, in the manner and in accordance with the tariff which the Lieutenant-Governor in Council may fix from time to time.

2510. In every case referred to a council of arbitration, the council shall have power to require either or each party to the claim or dispute to name not more than three persons, who, upon their consent in writing being lodged with the registrar, shall for all purposes of the reference, be taken to represent such party in the proceedings before the council. (Form M.)

2511. The sittings of the council of arbitration shall be public. Nevertheless, during any such sitting, the council, upon its own motion or upon application of either party, may order that the sittings be private, and that all persons other than the parties, their representatives, the officers or functionaries of the council, and the witnesses giving evidence, retire.

The president shall, for preserving order during any sitting of the council, have all the powers of a judge of the Superior Court, except that he shall not have the power of committing for contempt.

The council of arbitration shall decide the disputes according to equity and good conscience.

2512. The award of the council of arbitration shall be made within one year after the council has completed its hearing of the reference; it shall be given by and under the hands of a majority of the members of the council. (Form J.)

At the request of either party, and if the council of arbitration approves, a copy of the award shall be published by the registrar in the Quebec Official Gazette.

The award, or a copy certified under the hand of the president of the council, shall be deposited in the office of the registrar, and shall be open to inspection without charge during office hours.

2513. Either party to a dispute referred to either council of arbitration may, at any time before award, by writing, according to form K, agree to be bound by the award of the council, in the same manner as parties are bound upon an award made pursuant to a submission under chapter LXXIII of the Code of Civil Procedure (articles 1431 to 1444, both inclusive).

Every such agreement made by one party shall be communicated to the other party by the registrar, and, if such other party also agrees in like manner to be bound by the award, then the award shall become executory in accordance with article 1443 of the said Code.

#### Miscellaneous Provisions.

2514. For the purposes of this section, councils of conciliation and arbitration may:

(a) Visit the locality where the dispute has arisen, and hear all persons interested who may come before them;

(b) Summon any person to attend as a witness before the council (form N.), and in the case of any person summoned refusing to attend, application may be made by either party to a justice of the peace having jurisdiction in the city, town or county wherein the council may be sitting, for an order compelling such attendance; and such justice of the peace may compel such witness to appear before the council, as he might compel any witness to appear before himself in matters governed by part XV of the Criminal Code;

(c) Administer an oath to or take the affirmation of any person attending as a witness before the council, and examine any such person on oath or affirmation.

2515. No party to any dispute referred to a council of conciliation or a council of arbitration shall be represented by an advocate, or by any paid agent or agents other than one or more of the persons between whom the dispute or claim has arisen.

2516. No fees shall be paid to the registrar by any party in respect of any proceeding under this section.

2517. Each member of any council of conciliation shall be remunerated for his services out of the consolidated revenue fund of the province, according to the following tariff:—

|   |        |
|---|--------|
| Preliminary meeting .....                     | \$3.00 |
| Whole day sittings, subsequent meetings ..... | 4.00   |
| Half-day sittings, " " .....                  | 2.00   |

2518. Witnesses before councils of conciliation and of arbitration shall be entitled to the same fees as in the Superior Court, payable out of the consolidated revenue fund of the province.

2519. The Lieutenant-Governor in Council may make regulations for fixing the place where the councils of conciliation and arbitration shall sit, and for giving effect to any of the provisions of this section.

Such regulations shall come into force on publication in the Quebec Official Gazette.

Such regulations shall be laid before the Legislative Council and before the Legislative Assembly within fourteen days after being published in the Quebec Official Gazette, if the Legislature is then in session; and if not, within fourteen days from the date of the first day of the ensuing session.

2520. No proceeding under this section shall be deemed invalid by reason of any defect of form or irregularity.

(Forms omitted.)

### Employment Bureaus.

2520a. The Lieutenant-Governor in Council may establish and maintain in cities and towns, employment bureaus for workmen. 1910, c. 19, s. 1, part.

2520b. Such bureaus shall be under the control of the Minister of Public Works and Labour, to whom the superintendents hereinafter mentioned shall report annually on the first day of July whenever required so to do. 1910, c. 19, s. 1, part.

2520c. The Lieutenant-Governor in Council may appoint for each employment bureau, a superintendent, who shall receive a salary of not more than one thousand dollars a year, and all other subordinate employees necessary for the good administration of each bureau. 1910, c. 19, s. 1, part.

2520d. The salaries of the superintendents and other employees, office rent and other necessary expenses shall be paid out of the consolidated revenue fund of the province. 1910, c. 19, s. 1, part.

2520e. All workmen, being British subjects or born in Canada, and residing in the province, may, for the purpose of obtaining employment, have their names registered, free of charge, at any employment bureau, upon such conditions as may be fixed by the Lieutenant-Governor in Council.

The superintendent and the other employees, his assistants, shall receive and register free of charge all applications made to them by employers who require the services of workmen. 1910, c. 19, s. 1, part.

2520f. Any person who wishes to open or control an employment bureau for workmen, must first make application for permission to the Minister of Public Works and Labour, or to the chief inspector of industrial establishments and public buildings appointed under the fifth section of the second chapter of the seventh title (articles 3829-3866).

The Minister, on a favourable report from the inspector who has visited the premises where it is proposed to open such bureau, may grant a non-transferable permit to the person mentioned therein to open or control an employment bureau.

Every permit shall be granted for one year or a fraction of a year only, and shall expire on the first day of May following its issue. 1910, c. 19, s. 1, part. 1914, c. 21, s. 1.

2520g. The word "workman" in this section means and includes every person who does manual labour and who in the Order in Council creating each employment bureau, is included in the class of persons whom the said Order in Council declares qualified to take advantage of this section. 1910, c. 19, s. 1, part.

2520h. Every person controlling an employment bureau, other than an employment bureau for women only, shall be responsible for conducting such bureau as required by law; and more particularly he must:

a. Keep a register in French or English for the purposes of this section; the form and manner of keeping such register may be prescribed by the inspector;

b. Make a monthly return to the inspector, setting out the number of workmen registered, their country of origin, the name of the person with whom such workmen have been placed, and the total amount of fees received by the person in charge of the bureau, or by his agents;

c. Furnish, each year, to the inspector a certificate from the local board of health to the effect that the sanitary condition of the bureau is satisfactory. 1914, c. 21, s. 2, part.

2520i. The forms of receipts to be given by the person in charge of the bureau or by his agents, to workmen who pay into the bureau a certain sum of money, must be approved by the inspector before being made use of. 1914, c. 21, s. 2, part.

2520j. No employment bureau shall be kept in or in the immediate proximity of a building where intoxicating liquors are sold. 1914, c. 21, s. 2, part.

2520k. The registration fee payable to an employment bureau by a workman, or domestic servant, either male or female, shall not be more than three dollars. 1914, c. 21, s. 2, part.

2520l. The holder of a permit granted under article 2520f may not, however, open, keep or control an employment bureau other than an employment bureau for women only, without having first obtained a license from the revenue collector of the district to which he belongs.

Such license shall be issued on payment of an annual duty of two hundred dollars for cities and towns in which there are one or more free employment bureaus, organized under this section, and an annual duty of twenty-five dollars in other localities where there is no such free employment bureau.

The provisions of the second and third divisions of the Quebec License Act (articles 1176-1315) shall apply, *mutatis mutandis*, to the license required under this section. 1914, c. 21, s. 2, part.

2520m. Every person within the scope of this section, and keeping and controlling an employment bureau without being the holder of a permit from the Minister and of the license required by this section, shall be liable to a fine not exceeding five hundred dollars, and costs, for each contravention. 1914, c. 21, s. 2, part.

2520n. The Minister may, at any time, revoke a permit granted under this section.

The revocation of the permit shall operate as a revocation of the license. 1914, c. 21, s. 2, part.

2520o. The license mentioned in this section shall not be required in the case of benevolent societies or workmen's associations which endeavour to find employment for their members. 1914, c. 21, s. 2, part.

#### Prison Labour.

3526. The Lieutenant-Governor in Council may appoint in each of the districts of Quebec, Montreal and Three Rivers, respectively, three justices of the peace for the said districts, as a committee to superintend the house of correction in such district; the said committees shall provide stock and materials for the use and employment of the persons confined in the houses of correction in the said districts, and shall also make orders for the regulation of the said houses of correction and of the masters of such houses of correction, and of the persons therein confined, in all cases not provided for by law.

3527. Until separate houses of correction are erected in the said districts, the Lieutenant-Governor in Council may, out of any unappropriated moneys in the hands of the provincial treasurer, advance annually to the committees aforesaid in the said districts, a sum not exceeding eight hundred dollars for the district of Quebec, a sum not exceeding eight hundred dollars for the district of Montreal, and a sum not exceeding four hundred dollars for the district of Three Rivers, for the purpose of enabling the said committees to hire or provide a building fit to serve as a temporary house of correction, and also such accommodation for the performance of labour as may be requisite and also to provide stock and materials for the employment of the persons confined in the house of correction, as well as for the purpose of allowing reasonable salaries to the superintendent and keepers thereof, in each district.

#### Gambling by Workmen in Hotels Prohibited.

3591. If any journeyman, day labourer, servant or apprentice plays at any game of cards, dice, skittles or any other game, for money, liquor or otherwise, in any house, outhouse, apartment or ground in the occupation of or belonging to any person licensed to sell spirituous liquors by retail, or to keep a house of public entertainment in the province, and such journeyman, day labourer, servant or apprentice is convicted thereof before a justice of the peace in the villages or local municipalities, or before the justices of the peace in their sittings in the cities of Quebec or Montreal, by the oath of one

credible witness, or by confession, he shall incur and pay for every such offence, a fine not exceeding four dollars, and not less than one dollar; and, in default of payment of such fine within six days, such journeyman, labourer, servant or apprentice shall be committed to the house of correction for a space of time not exceeding eight days.

3592. The justices of the peace, before whom any such case is heard and determined, may award the costs which either of the parties shall have to pay the other, as they judge fit; and in case any person against whom any such costs are so awarded, does not pay the same within seven days next after they have been so awarded, any such justice of the peace, whether in or out of sessions, may issue a warrant of distress for levying the same, by the seizure and sale of the offender's goods and chattels.

3593. One-half of every penalty imposed in virtue of article 3591 shall belong to the informer, and the other half shall form part of the building and jury fund of the district in which it is imposed, and shall be accordingly paid over by the justice of the peace or person receiving it, to the sheriff of such district.

3594. An appeal shall lie from every judgment under article 3591 to the justices of the peace in the court of general sessions of the peace for the district where the judgment was rendered.

Before the allowance of any appeal as aforesaid, the appellant shall give good and sufficient security to pay the amount of the judgment appealed from and costs, both on the original complaint and on the appeal.

### Inspection and Regulation of Offices and Shops—Fire Escapes, etc.

3749. The words "public buildings" in this section mean and include . . . . . charity workrooms (ouvroirs) . . . . . buildings of three stories or more over the ground floor occupied as offices, stores employing at least ten clerks, and court houses.

3750. The words "proprietors of public buildings" in this section include persons, companies and corporations, who are proprietors, tenants or occupants under any title, of any building mentioned in article 3749, and their agents.

3751. Saving the restrictions which the Lieutenant-Governor in Council may make in the regulations which he may enact in virtue of article 3786, all public buildings mentioned in article 3749, are subject to the provisions of this section.

#### . Safety in Public Buildings.

3752. 1. The public buildings mentioned in article 3749 shall afford all the security required by this section and the regulations made under its authority.

2. Public buildings open to the public, on the twenty-fifth day of April, 1908, and which require too heavy an expense to be made conformable to the prescribed requirements, shall, however, be made to conform thereto, as far as possible, to the satisfaction of the inspector.

3. No public building shall be built or altered, and no work affecting the solidity of a building or of part of a building or changing the conditions of a building or part of a building, shall be done, without a permit from the inspector. Such permit shall not be issued until after examination of the plans and specifications for the building.

4. When extensive alterations are made to a public building, an architect's certificate as to the solidity and safety of such building shall be given by the proprietor to the inspector.

5. If the destination of a public building is so altered that greater solidity is required, an architect's certificate establishing such solidity, shall be given by the proprietor to the inspector.

6. Whenever proprietors and tenants cannot agree upon an architect, the choice thereof shall be made by the inspector, who shall appoint an architect recognized by the Province of Quebec Association of Architects, and the certificate of such architect shall be valid.

#### Duties of Proprietors of Public Buildings.

3753. Every proprietor of a public building shall:

1. Send to the inspector a written notice giving his name, the name of the building and its destination, as well as the name of the place where it is situated, within thirty days previous to the opening of such building to the public;

2. Send a written notification to the said inspector, of every fire or accident which occurs in such building, within forty-eight hours from the occurrence of such fire or accident;

3. Provide such inspector with everything necessary to facilitate an effective inspection of the building and its dependencies.

4. If the building is a theatre or a hall for lectures or public amusements, or a hotel, have a certificate of inspection, signed by the inspector, posted up, and keep it there continuously whole and legible;

5. Place a sufficient number of seats at the disposal of the girls or women employed in their stores, in order that they may rest when the nature of their work requires it, or service upon customers permits.

#### Duties and Powers of Inspectors.

3754. The inspectors of industrial establishments appointed in virtue of the fifth section of this chapter (3829 to 3866) shall see to the observance of this section and the regulations made under its authority.

3755. The said inspectors have, *mutatis mutandis*, the powers and are subject to the obligations, as regards safety and health in public buildings, indicated in the said fifth section and in the regulations made by the Lieutenant-Governor in Council, respecting the safety and health of employees in industrial establishments, in so far as the same may be applicable thereto.

3756. They have the right to be present at inquiries held by the fire commissioners of Quebec and Montreal, and at inquests held by coroners, in all cases of fire or accident in a public building, and to question the witnesses, in order to ascertain the cause of such fire or accident.

3757. They have the right to make to the proper authorities, any suggestion they may consider advisable in the interest of safety in public buildings.

2. They have the right, in the performance of their duties of free entrance into public buildings at any hour of the day or night; and shall be admitted therein without delay, on presenting a card identifying them, bearing the seal of the inspection department and the signature of the Minister of Public Works and Labour or that of the chief inspector.

3. They may require the production of the certificates or other documents required by law and the regulations passed in virtue thereof, as well as all information they may think necessary.

4. If they have reason to fear being molested in the performance of their duties, they may in any case require one or more constables to accompany them.

5. If an inspector ascertains that by reason of insufficient resistance or solidity in a building or part of a building, there is danger of a collapse, he shall forthwith order that such building or part of a building, as the case may be, shall be immediately and completely vacated, and for such purpose may require the services of any member of the municipal or provincial police force, or of a peace officer.

The Minister of Public Works and Labour may suspend or reverse any such decision of the inspector.

3758. They shall publish, in the Quebec Official Gazette, such provisions of the law and the regulations as they consider should be more especially made known to the public; and also publish their addresses therein.

#### How Public Buildings to Be Kept.

3759. 1. Public buildings, and all accessories thereof, movable or immovable, shall be so erected and kept that the lives of all persons residing therein or having access thereto shall be effectually protected against accidents.

2. They shall be provided with all means necessary to permit a prompt and easy exit therefrom of the occupants or of the public in case of an alarm of fire or a panic.

3. Every building of at least three stories, and every school building, shall be provided with safety appliances on the outside, such as iron stairs, safety tubes of canvas or metal, or other means of safety in case of fire, approved or prescribed by the inspector. This provision shall not apply to any public building that is fire-proof to the satisfaction of the inspector.

3760. Any system or device for safe exit may be adopted if it is approved by the inspector. If there are no means of safety apart from the ordinary exits, or if the safety system in use is not approved by the inspector, the latter may, by an order given to the proprietor, tenant, agent or superintendent of the building, require one or more safety devices. Such safety devices shall be installed at the places directed by the inspector, and built in the manner specified in the order. The exits or safety devices shall be built within thirty days after the order has been given, and each of them shall comply with the specifications contained in the order or with those contained in the following paragraphs:—

(a) Safety stair-cases shall be built of iron, with sufficient side railings, and shall be connected with the inside of the building by means of doors or windows; and shall also have sufficient landings at each story above the first, including the attic when it is used as a workshop, and shall be kept in good condition and unobstructed.

(b) Canvas tubes shall consist of tubes made of strong canvas, treated chemically and so as to offer sufficient resistance to fire. Such tubes shall be solidly fixed to an iron frame and shall be supplied with brakes to check the descent.

(c) Metal tubes shall consist of tubes of steel or sheet iron, of spiral form, and connected to each story by galleries.

(d) All balconies, galleries and stair-cases shall be put up at the places and in the manner determined by the inspector. Canvas tubes shall be placed in portable chests, and installed in the places determined by the inspector.

3761. When the windows or other outlets opening upon the safety stair-cases, are more than two feet above the floor, steps shall be placed so as to enable the occupants of the building to easily reach such outlets.

3762. The said safety exits shall always be kept in good condition, and free from all hindrance and obstruction.

3763. The principal doors from which exit is had, and all doors at the lower part of a staircase, shall open outwards and be kept free throughout meetings, classes, performances and religious services. In the case of hotels and boarding houses, boarding schools, and other buildings occupied at night, the doors shall never be locked with a key, but shall be supplied with a lock which opens automatically by pressure from within the building, and in the case of churches, theatres, amusement halls and places of public meeting, shall be closed by means of weights or springs and not by latches.

3781. The proprietor of any building, destroyed or partially destroyed, or rendered dangerous by fire or otherwise, shall demolish such building, and if the proprietor refuses or neglects so to do, after being ordered so to do by the inspector, the building shall be demolished at the expense of such proprietor, and the cost of such demolition shall be a privileged claim upon the land where the building is situated.

#### Offences and Penalties.

3782. 1. Proprietors of public buildings who infringe the provisions of this section and of the regulations made under the authority thereof, shall be liable to a fine not exceeding fifty dollars and costs, for each day while the offence lasts.

3786. 1. The Lieutenant-Governor in Council may make regulations, with respect to the buildings mentioned in article 3749, upon the following, amongst other matters:—

(a) The construction of public buildings and their solidity, so as to ensure the safety of those who reside in or who frequent the same;

(b) The precautions to be taken against fire, and more particularly as respects: doors and windows, staircases, escapes, apparatus for extinguishing fire and saving life, and elevators and their safety appliances;

(c) The safety and health of the guardians, workmen, workwomen, clerks or other persons employed in public buildings.

2. Nothing in this article shall affect the powers possessed by municipal councils of making by-laws respecting public safety, nor the powers of the commissioners appointed under the law respecting the erection and division of parishes, to make regulations on the same subject, with respect to churches and other buildings for divine worship; provided such by-laws or regulations be not inconsistent with those made in virtue of this section.

3787. This section shall not affect any rules and regulations, matters or things done or made under the law in force before the twenty-fifth day of April, 1908, which law, regulations, matters or things, shall remain in force and have effect until the contrary be decided under this section; nor shall it affect the rules and regulations adopted therein by the Board of Health of the province of Quebec.

3788. 1. The inspector, after having pointed out to the proprietor of any building the defects which may exist, whether in the construction of the building or in the installation and maintenance thereof, or any other defects resulting from the absence of anything required for the protection of human life, shall suggest the work which he thinks necessary, leaving, however, to the proprietor, the choice of the changes to be made so that his establishment shall be kept according to the law and regulations.

2. Upon receipt of the regulations adopted in virtue of this section, every person interested may call upon the inspector for the district to visit his establishment. The inspector shall point out whatever faults he may find.

3. If the application of the regulations necessitates a considerable change in the arrangements of the building, a delay shall be granted, proportioned to the importance of the changes deemed necessary. When this delay has elapsed, the regulations adopted in virtue of this section, shall be given full effect.

4. The delay granted to the proprietor to perform his obligations, shall be left to the discretion of the inspector.

3789. If the proprietor of a public building fails to comply with this section, the Minister of Public Works and Labour may cause to be made, at the expense of such proprietor, the works necessary to ensure the security of such building, or may order that such building be vacated and closed until the proprietor complies with the law.

Any such order shall be carried out by the proper inspector who may require all assistance necessary for such purpose.



### Protection of Employees on Buildings.

3790. The council of every city or town may appoint one or more inspectors of scaffolding, and provide for their remuneration.

3791. Every contractor or builder who makes use of scaffolding at least fifteen feet high, shall obtain and exhibit when required by any workman in his employ, or by an inspector, a certificate of inspection signed by a municipal inspector, or by an architect, or by a licensed engineer of this province or by an inspector of public buildings of this province.

3792. Every contractor or builder who refuses or neglects to comply with the requirements of article 3791, is guilty of an offence, and upon summary conviction thereof before a police magistrate or a justice of the peace having jurisdiction where the offence was committed, shall be liable to a penalty of not more than ten dollars and costs.

3793. Any person may prosecute or lay a complaint under this section, and the half of every penalty imposed, when collected, shall belong to His Majesty for the uses of the province, and the other half to the prosecutor or complainant.

3794. Every prosecution in virtue of the provisions of this section shall be brought, tried and decided in accordance with part XV of the Criminal Code.

3795. The inspectors of industrial establishments of the province are authorized to inspect scaffolding, to condemn such as they think dangerous, and to prosecute offenders against this section.

3796. This section shall apply to cities and towns, but nothing therein contained shall be deemed to take away from municipalities their right to regulate and provide for the inspection of scaffolding.

### Fire Prevention.

[Articles 3822a to 3822n inclusive, inserted in the Revised Statutes, 1909, by chapter 38, 1912 (second session), empower the Lieutenant-Governor in Council to appoint a Provincial Fire Commissioner, and such subordinate officers as may be necessary. The commissioner and other officers shall be subject to the authority of the Department of Public Works and Labour, and it shall be the duty of the commissioner to hold an inquiry into every fire which has destroyed property. The commissioner is given power to summon witnesses, and in the performance of his duty may enter any building or property where there has been a fire or any neighbouring property. Further powers of the commissioner are set forth in articles 3822h and 3822i as follows:—]

3822h. The commissioner and officers, any chief of a fire brigade in a city, town or village, and the mayor in any place where there is no fire brigade, may enter any building, and if they find that the state of the building or of the effects therein, is dangerous, they may order whatever they may think necessary to cause such danger to disappear, and if the owner of such building or effects does not forthwith obey such orders, he shall be liable to a fine or penalty of not more than ten dollars for each day he is so in default. 1912, c. 38, s. 1, part.

3822i. It shall be the duty of the commissioner to visit the said municipalities, and to inspect their fire extinguishing apparatus and their fire brigades, and to report to the Minister of Public Works and Labour and to the municipal authorities as to the condition thereof, and to aid such authorities with his advice. 1912, c. 38, s. 1, part.

[Provision is made for the maintenance of the office of the Fire Commissioner by a tax on the premium receipts of fire insurance companies. The commissioner is required to make a detailed annual report of his operations to the Minister of Public Works and Labour. The Fire Commissioners appointed for the cities of Quebec and Montreal, and for the town of Levis are to have the same powers as those granted to the Provincial Fire Commissioner. The Lieutenant-Governor in Council may, when he thinks proper, put Quebec, Montreal, or Levis or any or either of them under the jurisdiction of the Provincial Fire Commissioner, or extend the jurisdiction of the Fire Commissioner of Quebec or Montreal to any other part of the province.]

### Inspection and Regulation of Factories—Inspection of Steam Boilers.

#### Declaratory and Interpretative.

3829. This section may be cited as the "Quebec Industrial Establishments' Act," and, unless the context otherwise requires, the following words, terms and expressions have, for the purposes of this section, the following meanings:—

1. The words "domestic workshop" mean every establishment in which only the members of the family are employed, either under the authority of the father or mother, or of the tutor or guardian, provided such establishment be not classed as dangerous, unhealthy, or incommodious, or that the work be not done by a steam-boiler or other motor;



2. The word "employer" means any person who, in his own behalf, or as manager, superintendent, overseer or agent for any person, firm, company, or corporation, has charge of any industrial establishment and employs persons therein;

3. The words "industrial establishment" or "establishment" mean manufactories, works, workshops, work-yards, mills of all kinds and their dependencies.

No part of such industrial establishment used as a dwelling shall be deemed to form part of the establishment governed by this subsection.

No premises or place shall be excluded from the definition of an industrial establishment by reason only that such place or premises is or are in the open air.

4. The words "inspectors" and "sanitary physicians" mean the inspectors and sanitary physicians appointed by the Lieutenant-Governor in Council, under the authority of this section, for enforcing the provisions thereof;

5. The word "week," unless otherwise defined in this section, means the period between midnight on Sunday night and the same time on the following Saturday night;

6. The words "Minister of Public Works and Labour," or "Assistant Minister of Public Works and Labour," or "Minister" or "Assistant Minister" mean the Minister or Assistant Minister of Public Works and Labour of the province;

7. (Repealed by 1912, second session, c. 37, s. 1.)

8. The words "young girl" mean a girl over fourteen and under eighteen years of age;

9. The word "woman" means a woman of eighteen years and upwards. *ib*

#### Application of the Section.

3830. With the exception of mines, which are governed by the Quebec Mining Act, and to which this section applies only when the same is formally enacted herein, all manufactories, works, workshops, work-yards, and mills of every kind and their dependencies, are subject to the provisions of this section.

Domestic workshops in which no strange workman is employed, are excepted, unless such workshops be classified by the Lieutenant-Governor in Council as dangerous, unwholesome or inconvenient, or unless work be done therein by means of steam boilers or other motors. *A*

Such other premises as the Lieutenant-Governor in Council may indicate in the regulations made by him under this section are also excepted.

#### Safety of Employees in Factories and Sanitary Condition of Such Establishments.

##### 1.—General Provisions.

3831. The industrial establishments mentioned in article 3830 shall be built and kept in such manner as to secure the safety of all employed in them; and, in those which contain mechanical apparatus, the machinery, mechanism, gearing, tools and engines shall be so placed and kept as to afford every possible security for the employees.

They shall also be kept in the cleanest possible manner; be sufficiently lighted and have a sufficient quantity of air for the number of persons employed; be provided with effective means for expelling the dust produced during the work, and also the gases and vapours which escape and the refuse which results from it; in a word, fulfil all sanitary conditions necessary for the health of the persons employed, as required by and in conformity with the regulations made by the Board of Health of the province of Quebec, with the approval of the Lieutenant-Governor in Council.

##### 2.—Special Provisions.

3832. Regulations may be made by the Lieutenant Governor in Council to determine the special precautions necessary for the safety, health and morality of employees in industrial establishments.

Such regulations may be modified and may be applied, either wholly or in part, to all industries or to certain methods of working.

#### Employment of Boys, Girls or Women and Duration and Other Conditions of Such Employment.

##### 1.—Age and Other Conditions as to Employment.

3833. 1. In establishments classified by the Lieutenant-Governor in Council as dangerous, unwholesome or incommodious, the ages of the employees shall not be under sixteen years for boys and eighteen years for girls or women. *not above down*

2. In all establishments other than those indicated in paragraph 1 of this article, the ages of employees, whether boys or young girls, shall not be less than fourteen years.

3. The employer of the boy or young girl shall, if required, exhibit to the inspector a certificate of age signed by the parents, tutor or other persons having the lawful custody or control over such boy or young girl or the written opinion of a physician on the subject.

The inspector may require that such certificate be verified by affidavit. 1912, second session, c. 37, s. 3.

3834. A new examination of the boys or girls, allowed to work in a factory, may, at the request of the inspector, be made by one of the sanitary physicians or by any other physician, and upon the advice of such physician, the employee examined may be discharged for being under age or physically unfit. 1912, second session, c. 37, s. 4.

3835. No employer shall employ in an industrial establishment any boy or girl less than sixteen years of age, who is unable to read and write easily and fluently. An inspector, when he thinks proper, may require children less than sixteen years of age to undergo an examination upon their education, and may dismiss then if they cannot read and write easily and fluently; and he may also require a birth certificate from the children to prove their age. 1910, c. 27, s. 1, part.

3835a. No person or persons in charge of a theatre, of a hall for moving pictures where views are given by means of a cinematograph, or of any other establishment of a like nature; and, in the case of a company, no manager or other person in charge of the establishment, shall cause or allow any child less than fifteen years of age, to act or sing in such theatre, hall or establishment.

This article does not apply to educational institutions nor to entertainments for charitable purposes. 1910, c. 27, s. 1, part.

3836. Every person failing to comply with the requirements of article 3835 or article 3835a, shall incur for each offence the penalty imposed by article 3849. 1910, c. 27, s. 2.

## 2.—Duration of Employment..

3837. Except in the case mentioned in article 3838, no boy under eighteen years of age, and no girl or woman shall be employed in any of the establishments mentioned in article 3830 for more than ten hours in one day or for more than sixty hours in any one week. Any employer may, however, apportion the hours of labour per day for the sole purpose of giving a shorter day's work on Saturday.

One hour shall be allowed at noon each day for meals, if the inspector so directs, but such hour shall not be counted as part of the time herein limited as respects their employment.

The day of ten hours mentioned in this article shall not commence before six o'clock in the morning nor end after nine o'clock at night. 1912, second session, c. 37, s. 5.

3837a. In cotton or woollen factories, no boy less than eighteen years old, and no girl or woman shall be employed more than ten hours in any one day, or more than fifty-five hours in any one week.

One hour shall be allowed at noon each day for meals but such hour shall not be counted as part of the working hours hereinabove mentioned.

The day mentioned in this article shall not begin before seven o'clock in the morning, nor end after half-past six o'clock in the evening. 1912, first session, c. 36, s. 1. 1912, second session, c. 37, s. 6.

3838. The inspector, for sufficient reasons given to him, and in order to make up lost time or to satisfy the exigencies of trade, may, for a period not exceeding six weeks, extend the time of employment of boys less than eighteen years of age, girls and women to twelve hours in a day, or seventy-two hours in a week, provided that the day shall not commence before six o'clock in the morning nor end after nine o'clock in the evening, in the following cases:

(a) When any accident, which prevents the working of any industrial establishment, happens to the motive power or machinery; or

(b) When, from any occurrence beyond the control of the employer, the machinery or any part of the machinery of any industrial establishment cannot be regularly worked; or

(c) When any stoppage occurs from any cause whatsoever. 1912, second session, c. 37, s. 7.

## General Duties of Employers.

3839. Each employer or head of any establishment mentioned in article 3830 shall comply with all the provisions concerning him and more particularly shall:

1. Forward to the inspector a written notice containing his name and address, the name of the factory, the place where it is situated, the nature of the work, and the nature and amount of the motive power therein.

Such notice shall be given within thirty days from the opening of an establishment;

2. Send, within forty-eight hours of the accident, a written notice to the inspector, informing him of any accident whereby any workman has been killed or has suffered serious bodily injury, whereby he has been prevented from working.

Such notice shall state the place of residence of the person injured or killed, or the place to which he has been removed, so as to enable the inspector to hold the inquiry required by law;

3. Keep a register in which shall be entered:

(a) The names, ages and places of abode of the boys, girls or women whom he employs, and, whenever the place of abode is in a municipality in which houses are numbered, the street and number. 1912, second session, c. 37, s. 8.

(b) The period of each day and week during which such boys, girls or women were employed, and the hour at which they commenced and finished working. 1912, second session, c. 37, s. 8.

4. Afford the inspector every means necessary for facilitating the thorough inspection of the establishment and its dependencies;

5. Keep hung up, in the most conspicuous places in the establishment, the notices and provisions of the law and regulations supplied to him by the inspector, and keep them entire and legible until the latter orders them to be altered or removed;

6. Furnish the inspector with a certificate from a health officer, that his establishment fulfils the conditions as to health and sanitary conditions required by this section and the regulations of the Board of Health of the province of Quebec, approved by the Lieutenant-Governor in Council;

7. Furnish the inspector every year with a certificate of the inspection of the boilers and other motors in the establishment, as well as of the steam-pipes.

#### Inspection of Steam-Boilers, etc.

3340. The inspection of steam-boilers and motors in the establishment and also of steam-pipes, shall be made, in accordance with the regulations made on the subject by the Lieutenant Governor in Council, by an inspector holding a certificate from the examiners appointed by the Lieutenant-Governor in Council, and to whom an inspection district has been assigned by the Minister or by the chief inspector. The fees of each such inspector shall be fixed by the Lieutenant-Governor in Council.

Such inspection may also be made by any inspector of a lawfully incorporated accident insurance company, doing business in the province, provided such boilers or motors are then insured by such company and provided that such inspector holds a certificate as above provided for.

Employers shall afford every facility and means for a thorough inspection.

Boilers shall be made so as to give every possible security, and so that their mode of construction may afford all necessary means of inspecting them.

#### Duties of Owners, etc., of Property on which Industrial Establishments are Built.

3341. 1. The owner, tenant and occupant of the property on which the industrial establishment is built, are jointly and severally responsible for the construction and repair of fire-escapes, as well as for the changes made in such industrial establishment.

2. The dimensions and form of the fire-escapes, as well as the changes made to them, shall be approved by the inspector.

#### Inspection of Industrial Establishments.

##### 1.—Appointment of Inspectors and Sanitary Physicians.

3342. For the purpose of carrying out this section and the regulations made under its authority, the Lieutenant-Governor in Council shall appoint inspectors, one of whom shall be chief inspector.

The sanitary condition of industrial establishments is under the control of the Board of Health of the province of Quebec.

One or more sanitary physicians may, on the recommendation of the Board of Health of the province of Quebec, be appointed by the Lieutenant-Governor in Council, with special authority to supervise, under the direction of the said Board of Health, the sanitary condition of the industrial establishments, as well as the execution of the sanitary regulations made by the said Board of Health.

The remuneration of such sanitary physicians and their necessary expenses shall be paid out of the sums voted by the Legislature for the carrying out of this section.

3343. The Lieutenant-Governor in Council shall determine the salaries of the inspectors and of the sanitary physicians, and define their powers and duties which are not formally defined by this section.

3344. Such officers are under the general control and direction of the Minister; they shall report to him every year and whenever called upon to do so with respect to the observance of the law.

The sanitary physicians shall also make reports of a similar nature and in the same manner to the Board of Health of the province of Quebec.

## 2.—Duties of Such Officers.

3845. On entering into office, the said officers shall take the following oath before the Minister or Deputy Minister:

"I swear that I will faithfully and conscientiously fulfil the duties of my office of (as the case may be), and that I will not in any manner reveal the secrets of manufacture nor generally the processes followed in manufactures which may come to my knowledge in the performance of my duties. So help me God."

A. B.,  
Inspector.

Sworn before me, at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

C. D.,  
Minister of Public Works and Labour,  
or Deputy Minister."

## 3.—Powers of Officers.

3846. 1. The inspectors and sanitary physicians may enter at all reasonable times, by day or night, the establishments mentioned in article 3830.

2. They may require the production of the registers, certificates, notices or documents prescribed by this section and the regulations, examine the same and take copies of or extracts from them, make any suggestions and put any questions which they may consider pertinent.

3. For the purposes of paragraphs 1 and 2 of this article, they may get a constable to accompany them when they have reason to fear that they will be molested in the execution of their duty.

4. They have concurrent powers with the authorities charged with the execution of the law and of the regulations respecting safety and health in industrial establishments, including mines.

5. The inspectors may hold inquiries whenever they deem proper, and for such purpose examine any person employed in the establishment, summon witnesses, administer the oath to them, and exercise all the powers which may be necessary to carry out the provisions of this section and of the regulations.

No person examined by the inspector shall, however, be required to answer any questions or give any evidence tending to incriminate himself.

The costs of the inquiry shall be paid by the employers, whenever it is established that they are in default, and are recoverable by action brought by the inspector before any competent court.

6. They may be present at inquests held by the coroners and at inquiries held by the fire commissioners of Quebec and Montreal, in cases of fire or accident in an industrial establishment, and examine the witnesses with a view of ascertaining the cause of such fire or accident.

7. They may make any suggestions they think advisable to the proper authorities in the interest of health and safety in industrial establishments.

3847. Every person who wilfully delays one of these officers in the exercise of the powers conferred on them by article 3846, or who fails to comply with an order or summons received, or who conceals or attempts to conceal a boy, young girl or woman to prevent any one of them appearing and being examined, shall be deemed to obstruct the officer in the performance of his duty and be liable to the fine or imprisonment enacted by article 3851. 1912, second session, c. 37, s. 9.

## Notices and Services.

3848. 1. All notices required by this section to be given, shall be valid if received by the person for whom they are intended, or if left at his domicile or place of business within the delay fixed herein, irrespective of the mode by which such notice was conveyed.

2. All notices, orders, requisitions, summonses and documents required or authorized to be served for the purposes of this section, may be served by delivering the same to or at the domicile of the person himself, or by leaving a true copy with a reasonable person of his family or at the establishment where the person is employed, or by leaving a true copy with one of the employees or by a prepaid letter sent through the post.

When such documents are required to be served on an employer, they shall be deemed to be properly addressed, if addressed to him at the establishment in respect of which he is employer, with the addition of the proper posted address, but without naming the employer.

3. The inspector shall cause to be prepared such notices of the provisions of this section and of the regulations made thereunder as he deems necessary to enable the

employers and employees in any establishment to become acquainted with their responsibilities and duties.

Such notices shall also give the name and address of the inspector.

4. The notices to be given by the employers, and the registers they have to keep under article 3839, shall be made and drawn up in the form prescribed by the inspector.

#### Offences and Penalties.

3849. Whoever keeps an establishment contrary to the provisions of this section and of the regulations, shall be liable to a fine not exceeding two hundred dollars and costs and to imprisonment not exceeding twelve months in default of payment.

3850. The parents, tutors or guardians of any boy or young girl employed in an industrial establishment in contravention of this section, shall be guilty of an offence against this section, unless such contravention be without their consent, and without connivance or negligence on their part, and shall, on summary conviction thereof, be liable to a fine not exceeding fifty dollars and costs, and to imprisonment not exceeding three months in default of payment. 1912, second session, c. 37, s. 10.

3851. Every person obstructing the inspector or sanitary physician in the execution of his duties under the provisions of this section shall, if such obstruction be in the day time, be liable to a fine not exceeding thirty dollars and costs, and to imprisonment not exceeding three months in default of payment, and if it be in the night time, to a fine not exceeding one hundred dollars and costs, and to imprisonment not exceeding six months in default of payment.

3852. Every employer who neglects to have the boilers and steam-pipes in his industrial establishment inspected according to law and to the regulations on that subject, or who opposes such inspection or does not provide the necessary means and facilities for a thorough inspection, shall be liable to a fine not exceeding one hundred dollars and to imprisonment not exceeding six months in default of payment.

3853. Every engineer or employer who at any time allows the pressure of steam to which the boiler is subjected to exceed the degree allowed by his certificate, or alters, hides or disposes of the steam-gauge so as to prevent the real pressure from being seen and established, shall incur a penalty of two hundred dollars for each offence, and imprisonment for six months in default of payment.

3854. If an establishment be not kept in conformity with the provisions of this section and of the regulations made thereunder, the court, in addition to the penalties to which the employer is liable, may order such employer to comply therewith, within the time named in the order, under penalty of a fine not exceeding six dollars for each day after the expiration of the period during which the order is not complied with.

The court may, however, upon application, and for valid reasons, enlarge the delays, either by the same or by a subsequent order.

3855. Every person who wilfully makes a false entry in any register, notice, certificate or document required by this section, or who makes or signs any false declaration, or who makes use of such false entry or declaration knowing it to be false, shall, on conviction thereof, be liable to a fine not exceeding one hundred dollars and costs, and to imprisonment not exceeding six months in default of payment.

3856. Every employer who refuses to keep a register of the persons employed in his establishment in accordance with article 3839, or to enter their hours of work therein, shall be liable to a fine not exceeding thirty dollars and costs, and to imprisonment not exceeding three months in default of payment.

3857. If no penalty is prescribed for a contravention of the provisions of this section or of the regulations, rules or orders made thereunder by the Lieutenant-Governor in Council, or by the inspector, the employer who is guilty of such contravention shall be liable, upon summary conviction thereof, to a fine of not more than fifty dollars and costs, and to imprisonment not exceeding three months in default of payment.

3858. If any offence is committed against this section or the regulations, for which an employer is legally responsible, and it appears to the satisfaction of the court before whom the same is tried, that the offence has been committed without the personal consent, concurrence or knowledge of such employer, but by some other person, such court may summon such other person to answer for such offence, and such other person shall be liable to the penalty herein provided for such offence, and on due proof shall be convicted thereof, instead of the employer.

3859. Where it is made to appear to the satisfaction of the inspector, at the time of discovering an offence, that the employer had used all due diligence to enforce the execution of this section or of the regulations, and to ascertain by whom the offence was committed, and also that it had been committed without the knowledge, consent or connivance of the employer and in contravention of his orders, then the inspector shall proceed against the person whom he believes to be the actual offender, without first proceeding against the employer.

3860. When an offence for which an employer is responsible under this section or the regulations, has in fact been committed by some agent, servant, workman or other person, such agent, servant, workman or other person shall be liable to the same fine, penalty and punishment for such offence as if he were the employer.

#### Jurisdiction of Certain Courts, and Procedure.

3861. All prosecutions under this section shall be instituted by the inspector, and may be brought and heard before a judge of the sessions or a police magistrate in the cities of Montreal and Quebec, or before the district magistrate, or before any justice of the peace of the place where the offence was committed or wrong done, in any other part of the province, who shall have jurisdiction in such manner, whatever be the amount of the penalty claimed.

Such prosecutions may also be instituted by any other person, but in such case the prosecutor must previously deposit, with the person who issues the summons, the sum of twenty dollars as security for the payment of the costs of such prosecution.

3862. Save where otherwise provided by this section, the procedure to be followed is that prescribed by part XV of the Criminal Code, respecting summary convictions.

3863. No fine or imprisonment shall be imposed under this section, unless proceedings are commenced against the offender within three months after the offence has come to the knowledge of the inspector, or within thirty days after written notice of said offence given at any time by the inspector to the party in default.

#### Application of Penalties.

3864. All fines imposed under this section shall be collected by the inspector and paid to the Provincial Treasurer for the uses of the province.

#### Regulations.

3865. The Lieutenant-Governor in Council may, by regulation:

1. Exempt from the operation of this section, in accordance with article 3830, all such industrial establishments as he may deem proper;

2. Classify as dangerous, unhealthy or incommodious, such establishments as he considers dangerous to the health of the operatives, especially children, young girls and women;

3. Determine the duties of employers and managers of establishments which are not formally determined in this section;

4. Determine the powers and duties, not formally determined by this section, of the officers appointed to see to the execution of this section and of the regulations;

5. Determine the method of inspection of steam-boilers and steam-pipes in industrial establishments, including mines; create, and from time to time change, inspection districts for the purposes of such inspection; and fix, and, from time to time, change and modify tariffs of the charges for such inspection.

6. Prescribe all the special precautions which may be necessary in connection with the matters indicated in article 3832.

This subsection shall not, however, affect the right possessed by municipal councils of passing and enforcing by-laws on the subject.

Nor shall anything therein affect the rules and regulations adopted by the Board of Health of the Province of Quebec on the same subject.<sup>1</sup>

#### Final Provisions.

3866. The civil laws of this province, concerning the responsibility of the employer towards his employees, are not affected by this section.

#### REGULATIONS RESPECTING INDUSTRIAL ESTABLISHMENTS.

##### Installation and Maintenance.

No. 1. Installation and maintenance.—Industrial establishments, with all movables and immovables belonging to them, must be so installed and maintained that the health and lives of the workmen shall be protected as efficiently and to as great an extent as possible against the risks of trade.

No. 2. In the erection of buildings, as well as in alterations or modifications to the same, care must be taken to avoid, at the very outset, all defects in connection with their laying out, their safety and their salubrity, which it would be difficult to remedy later on. For that purpose, the architects' plans should be first submitted to the inspector.

<sup>1</sup> Since provisions corresponding to those contained in the regulations issued under this article appear as part of the Factory Act in several of the other provinces, the text of the regulations in question is reproduced below.

No. 3. The establishments already in existence, which it would require too heavy an outlay to alter so as to make them conformable to the law and regulations made under its authority, must, however, be made as far as possible, conformable to the same, to the satisfaction of the inspector.

No. 4. If the destination of the building of an establishment is altered so as to require greater solidity, a certificate from an architect establishing such solidity must be delivered to the inspector.

No. 5. If the inspector has any reason to suspect the solidity of a building, he may require an architect's certificate.

#### Working Places outside of Buildings.

##### Passage-ways.

No. 6. Passage-ways used by the workmen, outside of buildings, must be kept free from snow and clear of all material not required in working operations.

No. 7. Privies situated outside must be substantially built, furnished with a proper seat, and ventilated to the satisfaction of the inspector.

No. 8. Excavations, wells, basins, millraces, (flumes) must be fenced in or covered.

No. 9. Hoists.—The platform of hoists situated outside of buildings shall be furnished with a strong wire grating or a fence.

No. 10. Cranes and derricks.—Cranes and derricks worked by hand must be provided with pawls. If the load is to descend by its own weight, they will be provided with a brake and covers for the gears.

No. 11. The several parts of these apparatus must be frequently inspected by some competent person.

#### Interior of Buildings.

##### Doors and Exits.

No. 12. If the exits are insufficient, the inspector may give orders to built others inside, and, in the event of this being too difficult, arrangements must be made on the outside to facilitate egress.

No. 13. The main doors of egress must open outwards, and be left free during the entire working time.

No. 14. The width of these doors must not be less than 48 inches and their height not less than 7 feet.

No. 15. Doors serving as means of egress for corridors, passages, alleys or staircases, shall not be of less width than such passages: and, if they serve as exits in case of panic, they must swing both ways, be kept closed by weights or springs.

No. 16. The width of main passages must be at least 48 inches and that of side passages at least 24 inches. These passages must be kept clear.

No. 17. Elevated passage-ways, platforms.—Elevated passage-ways, platforms, sloping gang-ways, flying or stationary bridges crossing planks, scaffoldings, must be provided with guards consisting of a handrail and a cross-piece to prevent objects from falling. This prescription applies only to platforms whose level above the ground exceeds six feet.

##### Staircases.

No. 18. The main staircases must not be more than twelve feet between the landing places, nor less than four feet wide, and there must be a sufficient number of such staircases to allow of the buildings being immediately and easily cleared.

No. 19. Staircases must be kept in good order, provided with suitable railings and balusters, and a ceiling.

##### Light.

No. 20. The workrooms, staircases, passages, elevators, exits, and all places where the apparatus for signalling to stop machinery, or set it in motion, are placed, must be properly lighted.

No. 21. Boiler room.—The room generally, the steam gauge and water gauge must be specially lighted.

No. 22. Privies.—They must be constantly lighted during working hours if so required by the inspector

##### Hoists.

No. 23. At each story to which the hoist shall pass, there shall be provided substantial trap-doors disposed so that they shall open and shut automatically every time that the car shall pass up and down.

No. 24. Elevators and hoists shall be provided with safety catches, destined to hold the car in the event of the breaking of the cable.



No. 25. Employers will see that the different parts of their hoists or elevators receive a periodical inspection by the engineer of the establishment.

No. 26. In cities where a municipal inspection service exists, the employer, when requested by the inspector of industrial establishments, shall furnish a certificate of inspection of his hoist or elevator.

No. 27. The working of any hoist or elevator may be stopped by the inspector, if the necessary conditions of safety required are not observed.

#### Dangerous Spots.

No. 28. Pits for fly-wheels and other movable pieces of machinery, openings in the floors, walls, wells, traps, vats, basins, tanks of corrosive or heated liquids, and other dangerous spots or objects, must be fenced in to the satisfaction of the Inspector.

#### Safety Measures Respecting Stationary Boilers.

No. 29. In new establishments, unless specially authorized by the Inspector, steam boilers must be located outside of the main building.

No. 30. In existing industrial establishments, the steam boiler and other motors must, if necessary, be put in separate places closed in on the side where the work is done.

#### Safety-valves.

No. 31. Every boiler must be provided with one safety valve so loaded as to allow the steam to escape as soon as its effective pressure attains the maximum limit specified in the certificate of the last inspection.

No. 32. The opening of each valve must be sufficient to maintain the steam in the boiler at a degree of pressure not exceeding the above limit in any case.

No. 33. Every boiler must be provided with a check-valve, or apparatus working automatically and placed at the point of intersection of the feed pipe to which it belongs.

No. 34. The load of the safety-valve must be of one weight and never altered.

#### Steam-gauges.

No. 35. Every boiler must be provided with a steam-gauge in good order placed in full view of the stoker, and so graduated as to indicate, in pounds, the working pressure of the steam in the boiler.

#### Water-gauges.

No. 36. The water-gauge shall consist of a glass tube placed conspicuously and of easy access, so that it may be cleaned or changed when required.

No. 37. For boilers of great height, the glass tube is replaced by an apparatus so arranged as to show the workman in charge of the feeding the level of the water in the boiler.

No. 38. Try-cocks.—Cocks shall be placed on boilers at different heights. The water level must always be between those cocks.

#### Boiler Inspection.

No. 39. All new boilers and apparatus whose steam pressure exceeds 6 pounds shall, before being used, but after being put up, be inspected and approved according to law and to the regulations.

No. 40. The same formality will be required after any important repairs have been made.

#### Inspectors.

No. 41. No one can perform the duties of boiler inspector unless he fulfils the following conditions, viz.: 1. He must be of the full age of twenty-one years; 2. He must prove that his conduct is good; 3. He must speak French and English, and write at least one of these languages in a satisfactory manner; 4. He must hold a certificate of competency from the examiners appointed for that purpose.

No. 42. There shall be five examiners of inspectors of boilers for the province of Quebec.

No. 43. Examinations for the diploma of boiler inspectors shall be held in the presence of at least three of the examiners.

No. 44. The diplomas awarded to boiler inspectors can be cancelled at any time by the Minister of Public Works and Labour.

No. 45. No inspector can give a certificate if he is directly or indirectly interested in the construction or sale of the boiler to be examined, or in the establishment in which such boilers are placed.

No. 46. If the boiler inspector is satisfied, he will deliver a certificate in duplicate. (Form omitted.)

[Nos. 47 to 49 inclusive respecting engineers, stokers and their duties have been superseded by the Stationary Engineers Act.]

No. 50. A card of instructions for the guidance of the stoker shall be posted in the boiler room.

#### Apparatus under pressure.

No. 51. All apparatus under pressure must be provided with a steam-gauge and safety-valves, and be subjected to periodical inspection.

No. 52. Accessories of wheels and turbines.—The sluice-gates must be water-proof. The shaft must be provided with brakes, to stop the machinery as soon as the water is turned off.

#### Management of driving machinery and transmissions.

No. 53. When the same motor drives several transmissions in different places, each transmission must be provided either with a disconnecting apparatus or with a signal for stopping the machinery, or for putting it in motion.

No. 54. The putting in motion or stopping of the machine must always be preceded by a signal agreed upon.

No. 55. Starting and stopping fly-wheels.—When the fly-wheel of an engine at dead centre is being moved by hand, care must be taken that the steam-valve has been securely closed beforehand.

#### Protective provisions with reference to transmissions, machines, etc.

No. 56. Transmissions of power by belting, cables, shafting, gearing or cog-wheels in a place through which workmen have to pass, must be closed up in boxes or encased to a height of five feet above the ground.

No. 57. Vertical shafting, belting or cables, running from one story to another must be enclosed in a box fastened to the ground and of a height of five feet.

No. 58. Gears, bolts, nuts, keys, feed-rolls, offering danger to workmen charged with the care of oiling the machinery or shafting, or of the repairing of belts, must be securely guarded to the satisfaction of the inspector.

No. 59. Protective provisions respecting machinery in motion.—Fly-wheels, cranks, connecting-rods, guiding-rods, etc., must be provided with protective apparatus.

#### Machine tools in general.

No. 60. All machine tools driven by shafting, unless controlled by a pedal or friction clutch, shall be provided with a fast and loose pulley and belt shifter easily worked from the spot occupied by the workmen.

No. 61. In drilling machines, the drill stock must be smooth, free from projections, and kept in good order.

#### Woodworking machinery.

No. 62. Employers shall adopt the best means for the protection of their employees against accidents on their wood working machines; buzz-saws and others, buzz-planers, shapers, etc., must be guarded to the satisfaction of the inspector.

#### Emery Wheels, Grindstones, and Buffing Wheels.

No. 63. Before fitting on a new stone upon the machine, the foreman or overseer shall first verify the speed of the machine by means of an indicator. The maximum speed of the machine shall not exceed the number of revolutions marked on the label that makers have affixed on each stone.

No. 64. When the stones become uneven or cease to run true, they should be immediately dressed.

No. 65. The flanges must be of suitable size and the tool-rest should be well adjusted and kept as close to the cutting face of the stone as possible.

No. 66. The Inspector can order the installation of protective appliances against the bursting of stones, as well as the most efficient means of removing the dust generated.

#### Large Grindstones.

No. 67. Before putting a new grindstone in use, the same should be first hung up, and sounded with a hammer and be carefully examined.

No. 68. It is forbidden to allow stones to soak. The troughs must be emptied after work each day.

The grinders' bench must be securely held to the frame of the machine by a strong anchor chain.

No. 69. The leather covering of buffing-wheels must be securely fixed to the wheel, leaving no open joints on the buffing-face.

## Handling Belts.

No. 70. The inspector may order that belt-shifters, belt-mounters, and other apparatus be put up for handling belts on shafts, and the foreman must explain the working of these to the workman charged with handling the belts. It is strictly forbidden to connect by hand a belt more than three inches wide unless the power has been slowed.

## Signals.

No. 71. Signals to be established between the machine and the boiler.—Such signals must be established when the machine is at a distance from the boiler.

No. 72. Signals for the interior of engine or motor rooms.—Such signals are intended to convey a notice of the starting or stopping of the motion of transmissions.

## Signals Between the Different Places Where the Power is Conveyed to a Distance.

No. 73. Such signals enabling the workmen in the places containing machinery driven to order the stoppage or starting of the motive power to the engineer who controls the machine generating power, consist either in striking a bell, blowing a whistle or sounding an electric bell, except in cases where the apparatus allows of stopping the motors or transmissions at a distance.

## Oiling, Cleaning and Repairs.

No. 74. Workmen shall not undertake to oil, inspect, clean or repair machines in motion or moving parts of machinery, unless previously authorized to do so by the foreman or overseer.

No. 75. Parts of machinery in motion must be provided with automatic lubricators; otherwise the oiling of such parts, when in motion, will be permitted only if they are provided with protective apparatus, keeping the workmen safe from all danger. All the pillow-blocks and bearings must be provided with automatic lubricators.

No. 76. Cleaning of shafts and the pulleys for cables or belting when the machine is in motion must be done only while standing on the floor of the workshop or on a solid platform. In either case brooms, brushes, hooks, etc., with handles should be used. It is expressly forbidden to wear gloves or mittens or to clean machinery in motion by hand with tow waste or emery cloth.

## Precautions against fire.

No. 77. The inspector may order the employer to make all interior arrangements and to provide all apparatus necessary for preventing fires.

No. 78. Keeping of inflammable materials—Waste and rags saturated with oil must be kept in boxes with self-closing covers, and notices with the printed word "Inflammables" shall be posted on materials of a highly combustible nature.

## Precautions in case of fire or panic.

No. 79. In establishments three stories high and over, where the operatives work above the second story, the inspector may require the construction of additional exits and even of fire-escape stairs on the outside, if the ordinary exits at each end of the establishment are insufficient.

No. 80. These exits shall consist of openings, doors or windows opening outwards, leading to balconies or galleries of the establishment, a portion at least of which must not be built immediately over an opening in the lower story.

No. 81. A notice with the words "Exit in case of panic," must indicate the way to such exits.

No. 82. The angle of the stairs should barely exceed 45 degrees.

No. 83. The balconies, galleries, ladders and stairs must be made of iron and these latter must go down to the ground. The lower end of the stairs, however, may be movable.

No. 84. These balconies, galleries and stairs shall be built at the places and in the manner indicated by the inspector.

No. 85. When the windows or other exits leading to the fire-escape stairs are more than two feet above the floor, steps must be placed to enable the inmates to easily reach such exits.

No. 86. These safety exits must always be kept in good order and clear of all impediments or obstructions whatsoever.

No. 87. In case of buildings with flat roofs, a ladder 24 inches wide must give communication from the highest balcony to the top of the building and exceed the roof by at least 24 inches.

No. 88. The inspector may insist upon special safety appliances being adopted, when the particular situation of the premises or the number of persons renders the same necessary.

No. 89. Nevertheless, when the inspector considers that the situation and installation of the usual exits are sufficient, he may dispense the employer from observing the above prescriptions.

#### Sanitary measures.

No. 90. Ventilation.—All work rooms must be well aired, especially such as contain forges, foundries, grindstones, paints and varnishes, and those in which acids are handled, or in which deleterious gases are generated. *MR*

No. 91. Thermometers.—Thermometers to indicate the degree of temperature shall be placed in sufficient number at the spots indicated by the inspector. *long*

No. 92. Dangerous work.—Work in gas-mains, smoke-flues, and apparatus containing deleterious gases, must not be undertaken without the authorization of a person placed in charge of the same. The air contained in them must first be tested, and the workmen who have worked in them must be secured by means of a safety-belt.

#### Comfort of employees.

No. 93. In order to relieve their employees as much as possible of their fatigue, and provide in an adequate manner for their personal comfort, employers will conform with the following prescriptions, viz.:

(a) Give their employees facilities for securing individual cleanliness and water of good quality;

(b) Employees of both sexes, whose occupations permit of their sitting down, shall be provided with chairs furnished with a suitable back;

(c) Taking into account the number of employees, inspectors may require employers to provide suitable places where the employees can take their meals and change their clothing;

(d) Provide a sufficient number of spittoons and place the same in the different parts of the factory designated by the inspector;

(e) When working operations are carried on after six o'clock in the evening, according to the overtime permit, granted under provisions of article 3838 of the Act, an interval of at least thirty minutes shall be granted to the employees for their evening meal. A notice informing the employees of the change in the hours of work, signed by the inspector, shall be posted up.

(Form omitted.)

No. 94. Workmen must not take their meals in the workshop, or in any place where work is carried on, when forbidden by the inspector. They shall, however, in all cases, have a place where they can warm their food, and in bad weather take their meals sheltered from cold, rain or snow.

#### Closets.

No. 95. Each establishment must be provided with urinals in the proportion of at least one to every twenty-five persons therein employed.

No. 96. Water-closets with lifting seats.—In establishments provided with water-closets with lifting seats, the latter must be in proportion of one to every twenty-five persons. In this case, urinals are not necessary.

No. 97. Dimensions of closets.—These closets must not be less than 30 inches in width by 45 in depth.

No. 98. Forms and dimensions.—The inspector may prescribe the form of such urinals and closets, their location, dimensions and materials of which they are to be built, and give all such directions as he may deem necessary.

No. 99. The inspector has the right to condemn the urinals and closets if they are not built in accordance with his instructions and with the requirements of the regulations, or if he finds that the closets of each sex have not a separate and suitable access or entrance. *and have to be separate*

No. 100. The door giving access to the closets for the use of male and female employees shall be screened by a partition or in a manner prescribed by the inspector.

#### Personal Equipment of Employees.

No. 101. Clothing.—The clothing of employees having to work around moving parts of machinery and particularly those whose duty it is to oil up and repair machines, must be buttoned and close fitting.

No. 102. Gloves and mittens.—It is forbidden to wear gloves or mittens when working at saws or handling belts.

No. 103. Girls and women employed in industrial establishments shall wear their hair plaited and fastened to their heads, so that it will not come in contact either with the moving shafting or machines or with the substances or material which they are handling.

No. 104. Spectacles.—Workmen employed at machines emitting sparks or splinters, must be provided with spectacles, and in establishments where deleterious gases or dust are generated, the employees shall be provided with respirator masks approved by the inspector.

Care of Sick and Wounded.

No. 105. When an accident happens, the doctor must be called in at once.

No. 106. In large establishments, the inspector may require that some persons shall have acquired the necessary instructions to be able to give the first care as hereinafter mentioned.

(Directions respecting First Aid omitted.)

No. 107. Placards indicating the care to be given to the wounded.—Placards indicating care to be given to the wounded, as above stated, must be posted up in the workshop.

No. 108. Medicines, etc.—The medicines, bandages, etc., as indicated above, must, if the inspector requires, be kept in the workshop to enable the first care to be given. The notice to be sent to the inspector according to law, after an accident, will be in the following form:

To Mr.....

Inspector of Industrial Establishments.

You are hereby notified, pursuant to Art. 3839, Par. 2, of the Industrial Establishments' Act, of the happening of an accident in the establishment hereunder mentioned, whereof the following are the particulars:

- 1.—Name and age of person injured.....
- 2.—Residing on.....Street.....City.....  
County.....Village.....
- 3.—Location and name of establishment.....
- 4.—Date of accident.....
- 5.—Cause of accident.....
- 6.—Injuries resulting therefrom.....
- 7.—Where injured person sent.....
- 8.—Remarks .....

Dated at.....this..... day of ....., 19 .....

Signature of Employee or Agent.

Various Precautions.

No. 109. All workmen in the shop must be taught how to make use of the system or signal, by which all the machines can be stopped, in case of accident.

No. 110. When a belt is not in use, it must be hung up in a place where it cannot be caught by the pulleys or shafts.

No. 111. Women, girls and children must be forbidden to do any operations connected with belting or other modes of transmission. This should be done by adult workmen.

No. 112. Moving of heavy objects.—An experienced person must superintend the operation which shall not be undertaken until after the cables, chains, chain blocks, winches and other lifting apparatus have been examined.

No. 113. Handling of belts.—Employees shall conform with inspector's requests and adopt the best system possible of handling belts; they should provide fixed and hand belt-mounters and see that employees charged with this work are instructed in the use of the same.

Special Provisions.

No. 114. The inspector, after pointing out to the employer any defect that may exist in the construction or the maintenance of the buildings, or in the installation and maintenance of the establishments, or other defects resulting from the absence of what is necessary for protecting the lives and health of workmen, must suggest the works he may consider necessary, leaving, however, the employer to choose the alteration to be made in order that his establishment may in everything be conformable to law and regulations.

No. 115. On receipt of the present regulations, every person interested shall have the right to apply to the inspector of the district to visit his establishment and have him point out the arrangements which might be considered as not complying with the conditions as to safety and salubrity required by the regulations.

No. 116. If the application of the prescriptions of the regulations necessitate a considerable alteration in the arrangements of the establishment, a first respite shall be granted calculated according to the extent of the alterations considered necessary. When the delay fixed by this respite has expired, the present regulations shall be fully and completely carried out.

No. 117. The delay granted to the employer to comply with the regulations shall be at the discretion of the inspector.

(Form of certificate of age of children and young girls employed in the establishment omitted.)

#### Schedule of Dangerous Establishments.

|   |  |
|---|--|
| Abattoirs,                                  | Danger of accidents,                   |
| Acids Muriatic,                             | "                                      |
| " Nitric.                                   | Deleterious fumes.                     |
| " Sulphuric,                                | Danger of accidents.                   |
| " Oxalic,                                   | " of deleterious fumes.                |
| Asphalt (preparation of),                   | Odor, injurious dusts.                 |
| Arsenic (white),                            | Dangerous dusts.                       |
| Baking Powder (boxing of),                  | Injurious dusts.                       |
| Bakeries (rolling of dough),                | Danger of wounds.                      |
| Biscuits                                    | " "                                    |
| Benzine (storage of and manipulation),      | Danger of fire.                        |
| Beating of carpets on a large scale,        | Injurious dusts.                       |
| Beating and cleaning of wools,              | " "                                    |
| Cartridges (working at loading machines),   | Danger of explosion.                   |
| Cutlery (grinding and turning of stones),   | Injurious dusts.                       |
| Caps and detonators,                        | Danger of explosion.                   |
| Canning works (soldering of boxes),         | Deleterious gases.                     |
| Can Manufacturing (soldering of boxes),     | " "                                    |
| Cement (crushing and barrelling of),        | Injurious dusts.                       |
| Crushing of lime, plaster and stone,        | " "                                    |
| Cleaning of iron, brass or zinc with acids, | Injurious emanations.                  |
| Crystal (dry polishing of),                 | Dangerous dusts.                       |
| Confectionery (machines for rolling candy), | Danger of accidents.                   |
| Dry polishing of iron, brass or horn,       | Injurious dusts.                       |
| Drugs (mechanical pounding of),             | " "                                    |
| Dynamite (making or handling),              | Danger of explosion.                   |
| Dynamos (supervision of),                   | Danger of accidents.                   |
| Felt (tarring of),                          | Odor and injurious smoke.              |
| Flesh and refuse from abattoirs,            | Injurious emanations.                  |
| Fulminate of mercury,                       | Danger of explosion.                   |
| Fertilizer (making or storing of),          | Deleterious emanations.                |
| Flaying of horses and other animals.        | " "                                    |
| Gas for public use,                         | Danger of explosion.                   |
| Glue,                                       | Injurious odors.                       |
| Hoists, Elevators (running of),             | Danger of accidents.                   |
| Iron (galvanizing of),                      | Deleterious vapors.                    |
| Laundries (Ironing machines),               | Danger of accidents.                   |
| Matches (mixing and dipping departments),   | Special diseases caused by emanations. |
| Mirrors (plating of),                       | Injurious emanations.                  |
| Marble (sawing and polishing of),           | Injurious dust.                        |
| Nails (grinding tools and turning stones),  | " "                                    |
| Oil cloth,                                  | Odor, danger of fire.                  |
| Oils (storing and making of),               | " "                                    |
| Paris Green (boxing of),                    | Injurious dusts.                       |
| Rubber works (varnishing department),       | Deleterious vapors.                    |

*accidents  
dent  
lungs  
fire  
explosion*

## Schedule of Dangerous Establishments—Concluded.

|  |  |
|--|--|
| Shoe factories (polishing, sand papering on machines), | Dangerous dusts.                       |
| Sand papering wood by machinery,                       | " "                                    |
| Smelting and rolling of iron, brass, lead, zinc,       | Injurious smoke, danger of accidents.  |
| Skins (dyeing of),                                     | Bad odor, emanations.                  |
| Stamping of sheet metal (working the presses),         | Danger of accidents.                   |
| Oxide of iron (handling and barrelling),               | Injurious dusts.                       |
| Paint (boxing and canning of),                         | Deleterious emanations.                |
| Powder (making and manipulating),                      | Danger of explosion.                   |
| Skins and leather (preparation and glossing of),       | Injurious dusts, danger of accidents.  |
| Rags (sorting and manipulating of),                    | Injurious dusts.                       |
| Rags, cutting and grinding (garnetting of),            | " "                                    |
| Tar (dipping of iron pipes and wooden blocks),         | Injurious smoke.                       |
| Tinning of sheet-iron utensils,                        | Deleterious fumes.                     |
| Tinning of wire,                                       | " "                                    |
| Tallow (boiling),                                      | Danger of fire.                        |
| Varnishing metal dried in ovens,                       | Deleterious and injurious smoke.       |
| White lead,  | Special diseases caused by emanations. |
| Wood (working on edge tool machines),                  | Danger of accidents.                   |
| Wire (making and drawing),                             | " "                                    |

According to the provisions of the article 3833 R. S. P. Q., 1909, the age of the employees of the establishments enumerated in the above list shall not be under sixteen years for boys, and eighteen years for girls or women.

## Regulations relating to foundries.

Under article 3832 of the revised statutes of the Province of Quebec, 1909, it is ordered that the following regulations relating to foundries be approved and declared obligatory throughout the Province of Quebec:

Art. 1.—In future all entrances to foundries shall be constructed so as to minimize drafts.

Art. 2.—All passageways in foundries shall not be obstructed during the hours of casting.

Art. 3.—Whenever the ordinary means of ventilation in a foundry shall be deemed insufficient by the inspector, the latter may order the installation of section fans in sufficient number to expel the noxious gas, dust or smoke arising from the work.

Art. 4.—The installation in foundries of furnaces, forges or heaters, shall be prohibited unless ventilation or suction pipes be installed, or any other means suggested by the inspector to expel smoke from the establishment.

Art. 5.—Ventilators shall in future be placed in sufficient number in the roofs of foundries, which must be lighted and heated to the satisfaction of the inspector. Hot water shall be supplied to the employees for washing purposes throughout the period that artificial heating is necessary.

Art. 6.—All open pits around furnaces or any other openings in the floors of foundries shall be surrounded by a railing or covered by a grating to the satisfaction of the inspector. This applies to permanent openings. The stairs leading to furnaces or platforms shall be constructed of iron.

Art. 7.—The placing of medicine-chests for first aid to the wounded prescribed by article 106 of the regulations of industrial establishments shall in future be compulsory in all the foundries in the province.

Art. 8.—All establishments wherein cores are made, foundries, blast-furnaces, and where metals are refined, shall be deemed foundries, within the meaning of this regulation.

Art. 9.—The proprietors or agents of all foundries employing more than 50 persons shall have installed a shower-bath room supplied with hot and cold water. The floors of such rooms shall be of cement or other substance suggested by the inspector, and shall be provided with adequate drainage.



### Inspection of steam boilers.

[Regulations have been issued under the Industrial Establishments Act concerning the inspection of steam boilers, safety-valves, steam gauges, etc., but the text of these regulations is omitted from the present volume.]

### Examination and Licensing of Stationary Engineers.

3866g. This section may be cited as "The Quebec Stationary Engineers Act," and, unless the context imply a different meaning, the following words, terms and expressions shall, for the purposes of this section, have the signification and meaning as follows:

1. The words "Board of examiners" or "Examiners," mean the examiners appointed under this section;

2. The words "installation of motive power" include all steam boilers and steam pipes, for producing motive power, for the heating of any establishment, or for producing steam in any establishment, of which the heating surface exceeds fifteen square feet;

3. The word "Minister" means the Minister of Public Works and Labour;

4. The words "chief inspector" mean the chief inspector of industrial establishments and public buildings in the Province;

5. The words "stationary engineers" mean engineers in charge of an installation of motive power. 1914, c. 42, s. 1, part.

3866j. The Lieutenant-Governor in Council may make regulations determining such three in number, with such salaries as he may be pleased to fix.

Such salary or salaries and their travelling expenses shall be payable out of the consolidated revenue fund.

The examiners so appointed shall constitute the board of examiners. Such board shall be under the control of the Minister. 1914, c. 42, s. 1, part.

3866i. The special duties of the examiners shall be to hold examinations as to the efficiency of those who are or wish to become stationary engineers, and grant diplomas of efficiency. 1914, c. 42, s. 1, part.

3866j. The Lieutenant-Governor in Council may make regulations determining such special provisions as may be necessary for the proper working of the board, and particularly for the following purposes:

(a) To fix the method of examining candidates.

(b) To fix the tariff of fees to be paid, and a grading of diplomas;

(c) To enact any other provisions to facilitate the work of the examiners, and increase the efficiency of the service;

(d) To regulate the installation of motive power.

Such regulations shall come into force on the date of their publication in the Quebec Official Gazette, and may be altered from time to time, as necessity requires, and applied, wholly or in part, to certain industries, upon the order of the Minister.<sup>1</sup> 1914, c. 42, s. 1, part.

3866k. Any person who infringes the provisions of any regulation enacted under this section, shall be liable to a fine of not more than one hundred dollars, and costs, and in default of payment thereof, to imprisonment for a term not exceeding three months. 1914, c. 42, s. 1, part.

3866l. The examiners shall make an annual report to the minister, and keep registers in which shall be entered the names of engineers who have passed the examinations, and also of the candidates and the amount of the fees collected. They shall preserve in their archives a copy of the answers of each candidate to the examination papers. 1914, c. 42, s. 1, part.

3866m. 1. The programme of examination shall be approved by the Minister.

2. The chief inspector may call upon the services of the boiler inspectors whenever he deems necessary in the interests of the service. 1914, c. 42, s. 1, part.

### Medical Attendance for Employees in Camps, etc.

3894a. The Superior Board of Health may, by by-law, require the employment of duly qualified practising physicians by the proprietors or contractors in charge of shanties, mining camps, railroad construction camps, or others.

Such by-laws shall, however, apply only to such industries, proprietors or contractors of shanties, mining camps, and railroad construction and other works, as employ at least twenty-five men at the same place.

Such by-laws, after having been approved by the Lieutenant-Governor in Council, shall come into force fifteen days after their publication in the Quebec Official Gazette. 1915, c. 59, s. 6.

<sup>1</sup> Regulations have been issued under this article respecting the examination of candidates, the scale of examination fees, and the granting, renewal and cancellation of certificates. A programme of examination has also been approved by the Minister.

## Sanitation of Factories.

3934. The Board of Health of the Province of Quebec called in this section "the Board of Health" may, with the approval of the Lieutenant-Governor in Council, make and amend the by-laws which it deems necessary for securing health in industrial establishments, prescribed by section fifth of chapter second of title seventh of these Revised Statutes, (art. 3829 to 3866 both inclusive), and relating to:—

- a. The supply of drinking water;
- b. Lighting;
- c. The distance to be left between certain establishments and dwelling-houses, as well as the arrangement and details of the construction of rooms,
- d. Cubic space,
- e. Aeration and ventilation;
- f. Cleanliness and cleansing;
- g. The removal and manner of disposing of dust, gas, vapor and waste produced in the course of work;
- h. The system of drainage, including sinks, lavatories, urinals, privies or closets, and the method of disposing of waste liquids;
- i. The temperature of the premises;
- j. All other sanitary conditions which may arise in industrial establishments.

The Board of Health may declare that one or more of its by-laws shall not apply to one or more classes of establishments designated by it.

The said by-laws shall be approved by the Lieutenant-Governor in Council, and come into force fifteen days after their publication, with the notice of their approval by the Lieutenant-Governor in Council in the Quebec Official Gazette.<sup>1</sup>

3935. Every infraction of the provisions of this section or of the by-laws made thereunder, shall make the offender liable to a fine not exceeding two hundred dollars, and another fine of six dollars per day for every day during which the infraction lasts, after notice given by the sanitary physician or the municipal sanitary authority.

3936. Whenever the by-laws of the municipal sanitary authority are contrary to those of the Board of Health made in virtue of this section, the latter alone shall be in force.

If the manner of doing anything prescribed by the municipal by-law is, in the opinion of the Board of Health as efficient as that ordered by the by-laws of the Board of Health, the municipal by-law shall continue in force.

3937. The sanitary physicians appointed by the Lieutenant-Governor in Council, in virtue of section fifth of chapter second of title seventh of these Revised Statutes, (articles 3829 to 3866 both inclusive), and the municipal sanitary authority, must, under the direction of the Board of Health, see to the carrying out of the above-mentioned by-laws.

3938. The procedure to be followed for notices, services, suits and other measures rendered necessary in carrying out such by-laws, shall be that indicated for notices, services, prosecutions and other measures provided for by section fifth of chapter second of title seventh of these Revised Statutes, (art. 3829 to 3866 both inclusive).

Nevertheless, the prosecutor, if an officer who is employed by the Board of Health or by the municipal sanitary authority need not make the deposit required by article 3861.

## BY-LAWS OF THE BOARD OF HEALTH.

1. The definition of the several terms employed in these by-laws is given in the law relating to industrial establishments.

2. No industrial establishment can be put into operation without first obtaining permission from the municipal council.

## Supply of Drinking Water.

3. The supply of drinking water must be of good quality and satisfactory to the sanitary physician.

It is absolutely forbidden to use for drinking purposes:—

- (a) Water from wells dug in cellars;
- (b) Water from wells located less than twenty feet from a dwelling and at less than forty feet from a stable or pig-sty;
- (c) Water from wells dug at less than one hundred feet from an abattoir, a privy pit, a cesspool;
- (d) Water from wells situated at a distance less than four hundred feet from a cemetery, unless the bottom of these wells is above the level of the cemetery, or unless there be, between such wells and the cemetery, a ravine, gully, stream or river, the bottom

<sup>1</sup>Since provisions corresponding to those contained in the by-laws issued under this article appear as part of the Factory Act in several of the other provinces, the text of the by-laws is reproduced below.

of which is below the bottom of the wells. In any case, the distance must never be less than fifty feet.

The above restrictions do not apply to artesian or tubed wells, except in cases where the sanitary physician might have cause for suspecting their pollution.

#### Lighting.

4. When, in the opinion of the sanitary physician, the natural or artificial light is insufficient for the requirements of a workshop or manufactory, the said physician may require that the area of windows or the power of the artificial light in such workshop or manufactory, be increased to the proportion he believes necessary.

#### Cubic Space.

5. From the first of October to the first of May, each workman must have at least 400 cubic feet of air.

#### Aeration and Ventilation.

6. During the interruption of work for meals, the workroom must be vacated and the air therein completely renewed by the opening of the windows. The air is also to be entirely renewed after the work is over at night, or in the morning before the opening of the workshop.

7. When he believes it necessary, the sanitary physician may, on his own accord, prescribe any artificial ventilation, by propulsion or by extraction, capable of furnishing at least one thousand cubic feet of fresh air per hour for each workman. The air thus introduced must not be of a temperature of less than sixty degrees Fahrenheit.

#### Cleanliness and Cleaning.

8. No employer shall tolerate, either inside or outside his workshop, factory or dependencies, any accumulation of vegetable or animal refuse either in a state of decomposition or not.

9. In places where organic matters liable to putrefaction are dealt with, the floor must be rendered impervious, to the satisfaction of the sanitary physician. The walls are to be covered with an impermeable coating of silicate, stucco or zinc paint.

10. The putrescible wastes which are not used must never be left in the workrooms; they must be removed as soon as produced and deposited in closed vessels until ultimately burned or buried.

11. The interior walls and ceilings of every workshop or factory must be entirely whitewashed with lime once a year unless they are painted. The painted walls and ceilings must be washed all over with soap and water at least once a year.

12. The floor of every workshop must at least be swept after the day's work is over and the rubbish and waste taken out. In places where putrescible matters are handled, a complete cleansing by washing must take place at least once every week, if the work is continuous, and during the twenty-four hours following the work, if the latter be intermittent.

#### Dusts, Gases, Vapors, Waste.

13. All dust, gases and offensive, unhealthy and toxic vapors must be conducted directly out of the workshop as soon as they are produced, and this to the satisfaction of the sanitary physician.

14. In order to provide against reeks, vapors, gases, light dusts, funnels must be constructed connected with draught-flues or any other apparatus for an efficacious elimination.

15. Millstones, threshers, crushers and other mechanical apparatus must be enclosed in drums put in direct communication with a strong aspirator in order that dust be removed.

16. For heavy gases such as vapors of mercury and of sulphide of carbon, the ventilation must be made *per descensum*, and the working tables and other working apparatus must be in direct communication with the ventilators.

17. The pulverization of irritating or toxic matters or other operations, such as sifting and packing, must be done mechanically in closed apparatus.

18. When there is but a part of industrial operations that causes dusts, gases or vapors, the sanitary physician may require that such operations which he is to designate, are to be carried on in rooms entirely separate from the rest of the establishment.

19. The solid waste of a putrifying nature which is not to be used in the trade, must be burned or buried two feet under ground and in a place approved of by the municipal council or its board of health, but never less than two hundred feet from a well or other source of drinking water.

### Drainage.

20. In municipalities where there is a sewerage system, industrial establishments must be connected with the public sewer unless the waste waters, in the opinion of the sanitary physician, may deteriorate the sewers, and in this last case, articles 24, 25, 26, of these by-laws apply to these industrial establishments already constructed or to be constructed just as if there were no municipal sewerage system.

21. In establishments that run off their waste or washing waters in a public or private sewer:

(a) The collecting pipes of the building must be of iron, cast iron or vitrified earthenware.

(b) The soil-pipe must be of iron, cast iron or at least of lead and carried above the roof of the building.

(c) The pipes connecting water-closets, basins, sinks or other receptacles into the soil-pipe must be of iron or lead, and there must be a trap (waterseal) close to each water-closet, basin, sink or receptacle.

(d) Every joint must be so made as to prevent the escape of water or gas.

(e) It is forbidden to use zinc or galvanized sheet-iron for ventilation pipes in connection with the trap of water-closet, basin, sink or other receptacle.

(f) The water-closets must be placed in an apartment separate from the rooms in which the men are at work and they must communicate with the outside by a ventilator.

(g) The floor of the water-closet must be made impermeable to the satisfaction of the sanitary physician.

(h) The only water-closet allowed in factories that will be built in the future is the one known as the washout closet.

(i) The pipes and other plumbing done in future are to be uncovered.

22. The sanitary physician can have the number of water-closets increased when he considers it necessary.

23. Wooden drains ending in the interior of the building are forbidden.

24. In the municipalities where no sewerage system exists, the municipal council must, before permitting the construction of an industrial establishment, submit the drainage plans of the said industrial establishment to the sanitary physician in charge of the factories of the district, who, after having consulted with the executive of the Board of Health of the province, determines which of the following methods: land irrigation, decantation, mechanical filtering, evaporation in boilers followed by the incineration of the solid residue, or chemical decomposition, must be employed for the waste water and what kind of latrines to employ.

25. Every industrial establishment is forbidden to make use of cesspools communicating with or extending beyond underground water.

26. When the sanitary physician is of the opinion that a privy pit is dangerous to the public health, he may order its suppression and decide as to the kind of latrines to be used in its stead.

### Temperature.

27. From the first of May to the first of October, boilers used in factories must be placed in an entirely separate apartment and only the engineer and fireman can remain therein.

28. Unless it may be necessary to the kind of work carried on in the factory, and even then the authorization of the sanitary physician has to be obtained, the temperature of the workrooms must never be less than sixty nor more than seventy-two degrees Fahrenheit.

29. In establishments where the work necessitates the introduction of steam, the temperature of the apartment must be raised according to the degree of moisture to be reached, in the proportions indicated by the following scale:

(Scale omitted).

30. The above by-laws annul municipal by-laws only in cases where the latter are contradictory to the former.

31. All previous by-laws of the Board of Health of the province, contradictory to the present, are repealed in so far as they relate to industrial establishments.

32. When there is a conflict of opinion between the sanitary physician and the employer on a point left to the discretion of the former, it is the duty of the said sanitary physician to refer the matter to the president or secretary of the Board of Health of the province, before taking action.

33. The procedure to be followed for notices, services, lawsuits and other measures necessary to the enforcing of these by-laws, is that indicated for notices, services, lawsuits and other measures covered by section fifth, chapter two, of the seventh title of the Revised Statutes of 1909, articles 3829-3866.

34. Every infraction of the above by-laws renders the guilty party liable to a fine of two hundred dollars at most, and of another fine not exceeding six dollars per day, as long as the infraction lasts, after the notice has been given by the sanitary physician.

35. The articles 21a and 21b of these by-laws only apply to industrial establishments to be built in the future; and the industrial establishments now in operation are accorded, from the promulgation of the said by-laws, a delay of one year in order to conform to article 5, and a delay of six months for articles 9, 14, 16, 17, 20, 21f, 29, and a delay of three months for articles 21c, 21g and 25.

### Sunday Labour.

4466. The laws of this Legislature, whether general or special, respecting the observance of Sunday and in force on the twenty-eighth day of February, 1907, shall continue in force until amended, replaced or repealed; and every person shall be and remain entitled to do on Sunday any act not forbidden by the acts of this Legislature, in force on the said date, and, subject to the restrictions contained in this section, to enjoy on Sunday all such liberties as are recognized by the custom of this province.

4467. No person shall, on Sunday, for gain, except in cases of necessity or urgency, do or cause to be done any industrial work, or pursue any business or calling, . . . . .

4468. Every offence against this section shall be punishable by a fine of not less than one dollar and not more than forty dollars, with costs, and, in default of payment thereof, by imprisonment not exceeding thirty days for a first offence and for every subsequent offence to a fine of not more than one hundred dollars, and in default of payment, to imprisonment for not more than sixty days.

4470. Nothing in this section shall repeal the acts of this Legislature in force on the twenty-eighth day of February, 1907, concerning the observance of Sunday, nor any by-laws passed thereunder, which laws and by-laws shall continue in full force and effect until amended, replaced or repealed according to law.

4471. Notwithstanding anything contained in this section, whosoever conscientiously and habitually observes the seventh day of the week as the Sabbath day and actually abstains from work on that day, shall not be punishable for having worked on the first day of the week, if such work does not disturb other persons in the observance of the first day of the week as a holy day, and if the place where such work is done is not open for trade on that day.

4472. Nothing contained in this section shall restrict the privileges granted or recognized by Chapter 153 of the Revised Statutes of Canada, 1906.

### Early Closing in Shops.

5985. In every city and town, the municipal council may make, amend and repeal by-laws ordering that, during the whole or any part of the year, stores of one or more categories in the municipality be closed and remain closed every day or any day of the week, after the times and hours fixed and determined for that purpose by the said by-law, but the times and hours, so fixed and determined by such by-law, shall not be sooner than seven o'clock in the evening nor later than seven o'clock in the morning.

Every infringement of a by-law made in virtue of this section shall render the person found guilty thereof before two justices of the peace, liable to a fine not exceeding forty dollars for each offence, and in default of payment to imprisonment not exceeding two months.

Prosecutions for infringements of the by-laws made in virtue of this section, shall be governed by part XV of the Criminal Code, respecting summary convictions.

### Vocational Training—Encouragement of Technical Education.

5934. 1. The council of any city, town or village municipality may, by by-law, provide for the encouragement of technical education for the benefit of mechanics and the working classes generally:—

a. By establishing technical schools in the municipality and giving bonuses and prizes to be competed for by the pupils thereof;

b. By granting money to the schools established under article 2483, and by giving bonuses and prizes to be competed for by the pupils thereof;

c. By granting exemptions from taxation to the successful pupils in any such schools;

d. By otherwise assisting the progress and efficiency of such school in any manner that may be deemed advisable.

2. All by-laws passed for such purpose shall, however, before coming into force, be approved by the Lieutenant-Governor in Council.

3. All such schools shall be under the control of the Council of Arts and Manufactures.

**Liability of Directors of Joint Stock Companies for Employees' Wages.**

5971. The directors of the company shall be jointly and severally liable to the labourers, servants and apprentices of the company, for all debts not exceeding one year's wages, due for services performed for the company while they are such directors respectively.

No director shall be liable to an action for such debt, unless the company has been sued therefor within one year after the debt became due, nor unless such director is sued therefor within one year from the time when he ceased to be such director, nor before an execution against the company has been returned unsatisfied in whole or in part.

The amount due on such execution shall be the amount recoverable, with costs, against the directors.

**Railways—Application of Articles.**

6467. Articles 6470 to 6669, both inclusive, apply to every railway constructed or to be hereafter constructed, whether operated or to be operated by steam, electricity or other power, and, in so far as they are applicable to such undertaking, and unless they are expressly varied or excepted by the charter, shall be incorporated with the charter, form part thereof, and be construed accordingly.

6468. Any of the said articles 6470 to 6669 both inclusive, shall be sufficiently excluded from the charter by enacting in such charter that such articles, designating them by their numbers, shall not be incorporated therewith, and the charter or special act shall be construed accordingly.

6469. Articles 6670 to 6731, both inclusive, apply to all railways in course of construction by the Government of the Province, and the property of the Province, in so far as they are not inconsistent with the charter; to all railways which have been or which may be constructed, under the authority of any charter granted by the Legislature or the Government of Quebec; and to all companies incorporated for their construction and working; subject always to any provisions hereinafter made as to the application of any provision of this section to any railway or as to the time from which it is to be held as so applying.

**Railways—Definition of Terms.**

6470. 1. The words "the charter" or "the special Act," used in this section shall mean any act, statute, or law authorizing the construction of a railway with which this section or the Quebec Consolidated Railway Act, 1880, or the act respecting railways, as contained in the Revised Statutes of Quebec, 1888, is incorporated.

2. The word "prescribed," used in this section in reference to any matter herein stated, shall be deemed to refer to the matter prescribed or governed by the charter; and the sentence in which such word occurs shall be construed as if, instead of the word "prescribed," the phrase "prescribed for that purpose in the charter," had been used.

6471. 6. The word "highway" means all public roads, streets, lanes, and other public ways of communication.

10. The words "the company" mean the company or person authorized by the charter to construct the railway.

11. The words "the railway" mean the railway and the works authorized by the charter to be constructed or executed.

6472. In interpreting the provisions of this section, from article 6670 to 6731 both inclusive, the words "railway company" or "company" shall include every proprietor, lessee or contractor working a railway built or worked under any act of the Legislature.

**Rules for Railway Employees.**

6513. Every railway company shall make such by-laws, rules and regulations, to be observed by the conductors, engine-drivers, motormen and other officers and servants of the company, and by all other companies and persons using the railway of such company, and such regulations, with regard to the construction of the carriages and other vehicles to be used in the trains of the railway of the company, as are requisite for ensuring the complete carrying out of the provisions of this section, and the orders and regulations of the railway committee.

6514. The company may, from time to time, repeal or alter such by-laws and make others, provided that such by-laws be not repugnant to the provisions of this section or of the charter, or of any act amending the same.

6515. Such by-laws shall be reduced to writing and shall have affixed thereto, the seal of the company.

6516. Any of the conductors, engine-drivers, motormen and other officers and servants of the company, or other railway companies using any railway, offending against any such by-law, shall forfeit, for every such offence, a sum not exceeding forty dollars; such forfeiture to be imposed by the company in such by-law, as a penalty for every such offence.

6517. If the infraction or non-observance of any such by-law, by any person mentioned in article 6516, be attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, the company may summarily interfere, using no violence or unnecessary force, to obviate or remove such danger, annoyance, or hindrance, the whole without prejudice to any penalty incurred by the infraction of any such by-law.

6518. No such by-law shall have force or effect unless and until it has been approved by the Lieutenant-Governor in Council.

6519. 1. The substance of any such by-law, when approved as aforesaid, if it affects any officer or servant of the company, may be proved by proving the delivery of a copy to or its receipt by such officer or servant.

3. No penalty, imposed by any such by-laws, shall be recoverable, unless the same shall have been published and kept published as aforesaid.

6520. 1. Such by-laws, when so confirmed, shall be binding upon and be observed by all persons mentioned in article 6516, and shall be sufficient to justify all persons acting under the same.

6521. Any railway company may, by by-law, impose upon any officer, servant, or person who, before contravening such by-law, has had notice thereof, and is employed by the company, a penalty in favour of the company of not less than thirty days' pay of such officer or servant, for any contravention of such by-law, and may retain the amount of any such penalty out of the salary or wages of the offender.

6522. The notice of the by-law or of any order or notice of the Railway Committee, or of the inspecting engineers, may be proved by proving the delivery of a copy thereof to the officer, servant or person, or that he signed a copy thereof, or that a copy thereof was posted in some place where his work or duties, or some of them, were to be performed.

6523. Such proof, with proof of the offence, shall be a good defence for the company in any suit for the recovery of the amount so retained, and such penalty shall be over and above any penalty under this section.

#### Operation of Trains—Safety Appliances.

6529. Every railway company, which runs trains upon the railway for the conveyance of passengers, shall provide and cause to be used in and upon such trains, such apparatus as best affords good and sufficient means of immediate communication between the conductors and the engine-drivers, or the conductors or motormen of such trains while the trains are in motion, and good and sufficient means of applying, by the power of the steam engine or otherwise at the will of the engine-driver or other person appointed to such duty, the brakes to the wheels of the locomotive, or tender, or both, or of all or any of the cars or carriages composing the trains, and of disconnecting the locomotive, tender, and carriages from each other by any such power or means, and also such apparatus as will best and most securely place and fix the seats or chairs in the cars or carriages, and shall alter such apparatus or supply new apparatus as the Railway Committee may, from time to time, order.

6530. Every railway company, failing to comply with any of the provisions of article 6529, shall forfeit to His Majesty a sum not exceeding two hundred dollars for every day during which such default continues.

#### Railway Bridges, Etc.

6601. 1. Whenever an overhead bridge or any other erection or structure is constructed for the passage of a highway over a railway, or, whenever it shall become necessary to rebuild any highway bridge, or other erection or structure already built over a railway, or to make large repairs to the same, the lower beams or parts of the superstructure of any such bridge, or of any other structure, and the approaches thereto, shall be built or rebuilt at the cost of the railway company or of the municipality or other owner of the bridge, erection or structure, as the case may be, and shall, at all times, be maintained at a sufficient height, from the surface of the rails of the railway, to admit of an open and clear headway of not less than seven feet between the top of the highest freight cars, then running on the railway, and the lower beams or parts of such bridge or other erection.

2. Any railway company, before using higher freight cars than those running on their railway at the time of the construction or reconstruction of, or large repairs to



such bridge or other erection or structure, shall, after having first obtained the consent of the municipality or of the owners of such highway bridge or other erection or structure, raise the said bridge, or other erection or structure, and the approaches thereto, if necessary, at the cost and charges of the railway company, so as to admit a clear height of not less than seven feet over the top of the highest freight cars thereafter to be used on the railway.

#### **Railway Employees to wear Badges.**

6624. 1. Every servant of the company, employed on a passenger train, car or carriage, or at a station for passengers, shall wear, upon his hat or cap, a badge, which shall indicate his office.

2. Without such badge, he shall not be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, or to interfere in any manner, with any passenger, or his baggage or property.

#### **Negligence of Railway Employees.**

6631. Every locomotive engine shall be furnished with a bell of at least thirty pounds weight, and with a steam whistle.

6632. 1. The bell shall be rung, or the whistle sounded, at least eighty rods from every place where the railway crosses any highway, and be kept ringing or be sounded at short intervals, until the engine has crossed such highway, under a penalty of eight dollars for every neglect thereof, to be paid by the company, which shall also be liable for all damages sustained by any person by reason of such neglect.

2. One-half of such penalty and damages shall be chargeable to and collected by the company from the engineer having charge of such engine and neglecting to sound the whistle or ring the bell as aforesaid.

6633. Every car which contains a motor, or which runs at the head of a train on an electric railway, shall be furnished with a gong of at least ten inches in diameter.

6634. The gong on the first or only car forming a train on an electric railway, shall be sounded at least eighty perches from every place where the railway crosses any highway, and be kept ringing or be sounded at short intervals until the car has crossed such highway, under a penalty of eight dollars for every neglect thereof, to be paid by the company, and the company shall further be liable for all damages sustained by any person by reason of such neglect; one-half of which penalty and damages shall be collected by the company from the motorman or other person having charge of such car and neglecting to sound the gong as aforesaid.

#### **Protection of Electric Railway Employees—Closed Vestibules for Motormen.**

6635. Every electric railway company shall provide proper and sufficiently closed vestibules upon its cars, for the protection of the motormen operating the same, from exposure to cold, snow, rain and sleet, during November, December, January, February, March and April under a penalty payable to the municipality of ten dollars per day for each day upon which any motor is operated without such vestibules.

#### **Intoxication of Railway Employees.**

6636. Any person, in charge of a locomotive engine or acting as the conductor of a car or train of cars, who is intoxicated when on duty on the railway shall be liable to a fine of not less than twenty-five nor more than one hundred dollars.

#### **Transportation of Explosives.**

[Articles 6639 and 6640 deal with the transportation of explosives on railways.]

#### **Railways—Suits for Damages.**

6642. 1. All suits for indemnity for any damage or injury sustained by reason of the railway, shall be instituted within twelve months next after the time such supposed damage was sustained, and not afterwards.

The defendants may plead the general issue, and give this section and the charter and the special matter in evidence at any trial to be had thereupon, and may prove that the same was done in pursuance of and by authority of this section or the charter.

2. All fines or forfeitures imposed by articles 6470 to 6653, both inclusive, or by the charter, or by any by-law, except those for the levying and recovering of which special

provision is herein made, shall be recovered, in a summary manner, before any one or more justices of the peace for the district or place where the offence was committed.

3. All the fines, forfeitures and penalties recovered under paragraph 2 of this article, the application whereof is not hereinbefore particularly directed, shall be paid into the hands of the treasurer of the company, to be applied to the use thereof.

4. No contravention of this section or of the charter by the company, although considered to be an offence, and punishable accordingly, shall exempt the company, if it be the offending party, from the forfeiture by this section or the charter, of the privileges conferred on it by the said section or charter, if, by the provisions thereof or by law, the same to be forfeited by such contravention.

#### **Protection of Wages on Subsidized Railways.**

6654. Every railway company, receiving subsidies from the Government of this province, and every contractor or sub-contractor of such railway, who employs foremen, workmen or labourers, by the job or for a specified time, to fulfil the contract, must keep a list according to form C showing the names and wages or price allowed for the work of such foremen, workmen and labourers; and every payment made to them must be attested by the signature or the mark of the foreman, workman or labourer, affixed before a witness who signs said list.

6655. Any foreman, workman or labourer, or any person who has supplied to such company, contractor or sub-contractor, or to any person for them, labour or materials employed or to be employed in the construction of such railway, or who has given or sold one or more rights of way, may file in the office of the Minister of Public Works and Labour a claim under oath, made according to form D.

So soon as such claim is filed, the Minister of Public Works and Labour may, in his discretion, retain out of the subsidy granted by the Legislature to the company an amount sufficient to cover the claim until satisfied, unless the company or persons entitled to such subsidies consent to the payment of the claim by the said Minister out of the amount of such subsidies.

When the claim is contested, the said Minister shall keep an amount sufficient to pay the contested claim or claims until the matter is finally settled by the courts or settled by private agreement.

6656. Several unpaid foremen, workmen, labourers, suppliers of materials, or persons who have sold one or more rights of way, may join in the same claim.

6657. The assignment of the subsidies made by the company, or the assignment by the contractor or sub-contractor of the prices of work, shall in no wise affect the right conferred upon the persons mentioned in article 6655 to be paid out of the subsidies.

#### **Protection of Wages in Railway Construction.**

6658. Any railway company, incorporated by any act of the Legislature, may stipulate and provide, in any contract between the company and any person or persons contracting with the company for the construction of the whole, or any part or section of the railway of the company, or for the reconstruction or repair thereof, in whole or in part, that the labourers and workmen employed in such construction or reconstruction or repair, shall be paid daily, weekly, or monthly, according to the terms of hire or agreement made with them.

6659. Any such railway company, contracting with any person or persons as aforesaid, for the construction or reconstruction, or repair of their railway or any part thereof, may, in default of any stipulation or provision for the payment of labourers or workmen in such contract, withhold payment to their contractors, until all moneys then due and owing to labourers and workmen have been paid.

The sums so withheld, however, shall not be greater than the sums due and owing to the labourers and workmen and of which notice shall have been given to the company.

6660. Every such railway company, contracting as aforesaid, shall ascertain, from time to time, by agent or otherwise, that all arrears due to labourers and workmen have been paid by their contractors, before making final payment to or settlement with them.

6661. If any such railway company, whose contractors or sub-contractors are in arrears with their labourers or workmen, do or shall, after notice thereof, by letter addressed to the secretary or president, at the principal office of the company, pay over moneys then due or payable to their contractors without providing for the payment of the arrears, the railway company shall thereupon become and be liable to pay the same as a debt due from the company to the said labourers and workmen.

6662. If the amount claimed to be due by the labourers and workmen from the contractors or sub-contractors, is disputed or denied by the latter and notice thereof

is given to the company, it shall withhold payment until the dispute is decided by a competent court; and the company shall thereupon pay over to the labourers and workmen the amount declared to be payable to them by the judgment.

### Inspection of Railways.

6678. The Railway Committee, whenever it receives information to the effect that any bridge, culvert, viaduct, tunnel or any other portion of any railway, or any engine, car, or carriage used or for use on any railway, is dangerous to the public using the same, from want of repair, insufficient or faulty construction, or from any other cause, or whenever circumstances may arise which in its opinion, render it expedient, may direct the engineer, as aforesaid, to examine and inspect the railway or any portion thereof, or the works connected therewith, or the engines and other rolling-stock in use thereon or on any portion thereof.

Upon the report of the engineer, the committee may condemn the railway, or any portion thereof, or any of the rolling-stock or other works connected therewith, and, with the approval of the Lieutenant-Governor in Council, may require any change or alteration therein, or in any part thereof, or the substitution of any new bridge, culvert, viaduct, or tunnel, or of any material for the said railway; and, thereupon, the company to which such railway belongs or the company using, running or controlling the same, shall, after notice thereof in writing signed by the chairman of the committee, and countersigned by the secretary thereof, proceed to remedy the defects in the said portions of the railway, or in the locomotive, car or carriage which have been so condemned, or shall make such change, alteration or substitution hereinbefore referred to, as has been required, in manner, aforesaid, by the committee.

6679. If, in the opinion of any such engineer, it be dangerous for trains or cars to pass over any railway or any portion thereof, until alterations, substitutions or repairs have been made thereon, or for any particular car, carriage, or locomotive, to be run or used, the said engineer may forthwith forbid the running of any train or cars over such railway or portion of railway, or the running or using of any such car, carriage or locomotive, by delivering or causing to be delivered to the president, managing director, or secretary or superintendent of the company, owning, running, or using such railway, or to any officer having the management or control of the running of trains on such railway, a notice in writing to that effect, with his reasons therefor, in which he shall distinctly point out the defects or the danger to be apprehended.

6680. The inspecting engineer shall forthwith report the same to the Railway Committee, who, with the sanction of the Lieutenant-Governor in Council, may confirm, modify or disallow the act or order of the inspecting engineer.

Such confirmation, modification or disallowance shall be notified to the railway company interested.

6681. Any engineer appointed as aforesaid to inspect any railway or works, may, at all reasonable times, upon producing his authority, if required, enter upon and examine the said railway and the stations, fences or gates, road-crossings, cattle-guards, works and buildings, and the engines, cars and carriages belonging thereto.

### Accidents on Railways.

6687. Every railway company, as soon as possible, and within not more than forty-eight hours after the occurrence upon the railway belonging to such company of any accident attended with serious personal injury to any passengers, or whereby any bridge, culvert, viaduct or tunnel on the railway has been broken or so damaged as to be impassable or unfit for use, shall give immediate notice thereof to the Railway Committee.

Any company wilfully omitting to give such notice shall forfeit to His Majesty the sum of two hundred dollars for every day during which such omission continues.

### Liability of Railway Companies not relieved by Inspection.

6688. No inspection had under this section, nor anything in this section contained, nor anything done, or ordered or omitted to be done or ordered, under or by virtue of this section, shall relieve any railway company of or from any liability or responsibility, resting upon it by law, either towards His Majesty, or towards any person, or the wife or husband, parent or child, executor or administrator, tutor or curator, heir or other personal representative of any person, for anything done or omitted to be done by such company, or for any wrongful act, neglect or default of such company, or in any manner or way to lessen such liability or responsibility, or in any way to weaken or diminish the liability or responsibility of any such company under the laws in force in this province.

### Returns of Accidents on Railways.

6691. Every railway company shall, within one month after the first days of January and July in each year render to the Railway Committee, under oath of the president, secretary or superintendent of the company, a true and particular return of all accidents and casualties (whether to persons or property) which have occurred on the railway of the company during the half year next preceding each of the said periods, setting forth:

1. The cause and nature of such accidents;
2. The points at which they occurred, and whether by night or by day;
3. The full extent thereof, and all the particulars of the same.

The company shall also, at the same time, return a true copy of its existing by-laws and of the rules and regulations for the management of the company and of its railways.

6692. The Railway Committee may, from time to time, order and direct the form in which such returns shall be made up, and may order and direct any railway company to make up and deliver to them, from time to time, in addition to the periodical returns, returns of serious accidents occurring upon the railway belonging to such company, whether attended with personal injury or not, in such form and manner as the committee deem necessary and require for its information, with a view to the public safety.

6693. If such returns, verified as aforesaid, be not transmitted within the respective times hereinabove prescribed, or within fourteen days after the same have been so required by the Committee, every company making default shall forfeit to His Majesty one hundred dollars for every day during which the company neglects to transmit the same.

6694. All such returns shall be privileged communications, and shall not be evidence in any court of justice.

### Negligence of Railway Employees.

6726. If any officer or servant of, or person employed by any railway company, wilfully or negligently contravenes any by-law or regulation of the company, lawfully made and in force, or any order or notice of the Railway Committee, or of the inspecting engineer, of which a copy has been delivered to him, or has been posted up or open to his inspection in some place where his work or his duties, or any of them, are to be performed, then, if such contravention causes injury to any property or to any person or exposes any property or any person to the risk of injury, or renders such risk greater than it would have been without such contravention, although no actual injury occurs, the person convicted of such contravention shall, in the discretion of the court before whom the conviction is had, be punished by fine or imprisonment, such fine not to exceed four hundred dollars, or such imprisonment five years.

6727. If such contravention do not cause injury to any property or person, not expose any person or property to the risk of injury, nor make such risk greater than it would have been without such contravention, then the officer, servant or other person guilty thereof, shall thereby incur a penalty not exceeding the amount of thirty days' pay, nor less than fifteen days' pay of the offender from the company, in the discretion of the justice of the peace before whom the conviction is had.

Such penalty shall be recoverable with costs, on the oath of one credible witness other than the informer, before any justice of the peace having jurisdiction where the offence has been committed, or where the offender is found.

6728. One-half of such penalty shall belong to His Majesty for the public uses of the province, and the other half to the informer, unless he be an officer or servant of, or person in the employ of the company, in which case he shall be a competent witness and the whole penalty shall belong to His Majesty, for the uses aforesaid.

6729. The company may, in all cases under articles 6726, 6727 and 6728, pay the amount of the penalty and costs, and recover the same from the offender, or deduct it from his salary or wages.

### Liability of Directors of Mining Companies for Employees' Wages.

6751. Notwithstanding the provisions of this section, the directors of the company shall be jointly and severally liable to the labourers, servants and apprentices of the company for all debts, not exceeding one year's salary, due for services performed for the company whilst they are such directors, respectively; but no director shall be liable to an action therefor, unless the company has been sued therefor within one year after the debt became due, nor unless such director is sued therefor within one year from the time when he ceased to be such director, nor before an execution against the company has been returned unsatisfied in whole or in part.

The amount due on such execution shall be the amount recoverable, with costs, against the directors.

### Co-operative Associations.

6763. Co-operative syndicates for consumption, production, credit and for other economical and provident purposes may be formed at any place in the province under this section.

Nevertheless in cities and towns including more than one provincial electoral district, the territory within which the association shall operate, may be that fixed by the territorial limits of said cities and towns where the associations have their corporate seats. 1912, c. 43, s. 1.

6767. The object of the association shall be to study, protect and defend the economic interests of the labouring classes. For that purpose it may buy for re-sale to the associates only, such articles as are necessary for the support of life or for the works of their industry; open up credits for them and make loans to them; establish works in common for the associates, or allow them to devote themselves to processes of production and to sell the products thereof, either collectively or individually.

The association, notwithstanding that it is limited to a special territory, may enter into any transaction with any person, corporation or voluntary association, necessary for the proper working of the society or the carrying out of its objects; but all transactions of the association which yield profits or benefits, shall, being essentially co-operative, be confined to the members. 1911, c. 43, s. 2.

6768. Farmers' clubs and agricultural societies may take shares in such syndicates with the permission of the Minister of Agriculture. School commissioners, and corporations of cities, towns, villages, parishes and townships, may also take such shares.

6769. At least twelve associates shall be required to constitute a co-operative association under this section.

### Workmen's Compensation.

7321. Accidents happening by reason of or in the course of their work, to workmen, apprentices and employees engaged in the work of building; or in factories, manufacturing or workshops; or in stone, wood or coal yards; or in any transportation business by land or by water; or in loading or unloading; or in any gas or electrical business; or in any business having for its object the building, repairing, or maintenance of railways or tramways, waterworks, drains, sewers, dams, wharves, elevators, or bridges; or in mines, or quarries; or in any industrial enterprise, in which explosives are manufactured or prepared, or in which machinery is used, moved by power other than that of men or of animals, shall entitle the person injured or his representatives to compensation ascertained in accordance with the following provisions.

This subsection shall not apply to agricultural industries nor to navigation by means of sails.

7322. 1. In cases to which article 7321 applies, the person injured is entitled.

a. In case of absolute and permanent incapacity, to a rent equal to fifty per cent of his yearly wages, reckoning from the day the accident took place, or from that upon which, by agreement of the parties or by final judgment, it is established that the incapacity has shown itself to be permanent;

b. In case of permanent and partial incapacity, to a rent equal to half the sum by which his wages have been reduced in consequence of the accident;

c. For temporary incapacity, to compensation equal to one-half of the daily wages received at the time of the accident, if the inability to work has lasted more than seven days, and beginning on the eighth day.

2. The capital of the rents, shall not, however, in any except in the case mentioned in article 7325, exceed two thousand dollars.

7323. When the accident causes death, the compensation shall consist of a sum equal to four times the average yearly wages of the deceased at the time of the accident, and shall in no case, except in the case mentioned in article 7325, be less than one thousand dollars or more than two thousand dollars.

There shall further be paid a sum of not more than twenty-five dollars for medical and funeral expenses, unless the deceased was a member of an association bound to provide, and which does provide therefor.

The compensation shall be payable as follows:—

(a) To the surviving consort not divorced nor separated from bed and board at the time of the death, provided the accident took place after the marriage;

(b) To the legitimate children, or to the illegitimate children acknowledged before the accident, to assist them to provide for themselves until they reach the full age of sixteen years;

(c) To ascendants of whom the deceased was the only support at the time of the accident.

If the parties do not agree upon the apportionment of the compensation, it shall be apportioned by the proper court. Nevertheless every sum paid under article 7322 in respect of the same accident shall be deducted from the total compensation.

7324. A foreign workman or his representatives shall not be entitled to the compensation provided by this subsection, unless at the time of the accident he or they reside in Canada, nor after he or they cease to reside there while the rent is being paid; but if he or they cannot take advantage of this subsection the common law remedy shall exist in his or their favour.

7325. No compensation shall be granted if the accident was brought about intentionally by the person injured.

The court may reduce the compensation if the accident was due to the inexcusable fault of the workman, or increase it if it is due to the inexcusable fault of the employer.

7326. If the yearly wages of the workman exceed six hundred dollars, no more than this sum shall be taken into account. The surplus up to one thousand dollars shall give a right only to one-fourth of the compensation aforesaid.

This subsection does not apply in cases where the yearly wages exceed one thousand dollars.

7327. Apprentices are assimilated to the workmen in the business who are paid the lowest wages.

7328. The wages upon which the rent is based, shall be, in the case of a workman engaged in the business during the twelve months next before the accident, the actual remuneration allowed him during such time, whether in money or in kind.

In the case of workmen employed less than twelve months before the accident, such wages shall be the actual remuneration which they have received since they were employed in the business, plus the average remuneration received by workmen of the same class during the time necessary to complete the twelve months.

If the work is not continuous the year's wages shall be calculated both according to the remuneration received while the work went on, and according to the workman's earnings during the rest of the year.

7329. As soon as the permanent incapacity to work is ascertained, or in case of death of the person injured within one month from the date of the agreement between the employer and the parties interested, or, if there be no agreement, within one month from the date of the final judgment condemning him to pay the same, the employer shall pay the amount of the compensation to the person injured or his representatives, or, as the case may be, and at the option of the person injured or of his representatives, shall pay the capital of the rent to an insurance company designated for that purpose by order in council.

The person injured or his representatives may, at their option, demand the payment to themselves of the amount of the compensation, or of the capital of the rent, which shall in no case exceed two thousand dollars, whether in case of death, or of incapacity which would entitle him to an annual rent; saving the case provided for in article 7325. 1914, c. 57, s. 1.

7330. The rents payable under this subsection, shall be paid quarterly.

The compensation in case of temporary incapacity is payable at the same time as the wages of the other employees, and at intervals in no case to exceed sixteen days.

7331. The Lieutenant-Governor in Council may prescribe the conditions upon which the insurance companies applying by petition to be authorized to pay the said rents in virtue of this subsection, shall be authorized to do so; but no company that has not made a deposit with the Government of Canada or of this province, in conformity with the laws of Canada or of this province, of an amount deemed sufficient to ensure the performance of its obligation, shall be so authorized.

7332. All compensation to which this subsection applies, shall be inalienable and exempt from seizure, but the employer may deduct from the amount of the indemnity any sum due to him by the workman.

7333. The compensation prescribed by the preceding articles shall be entirely at the charge of the employer, and the employer shall not, for this purpose, deduct any part of the employee's wages, even with the consent of the latter.

#### Liability for Accidents.

7334. The person injured or his representatives, shall continue to have, in addition to the recourse given by this subsection, the right to claim compensation under the common law from the persons responsible for the accident other than the employer, his servants or agents.

The compensation so awarded to them shall, to the extent thereof, discharge the employer from his liability; and the action against third persons responsible for the accident, may be taken by the employer at his own risk, in place of the person injured or his representatives, if he or they refuse to take such action after having been put in default to do so.

7335. In cases to which this subsection applies, the employer shall be liable to the person injured or to his representatives mentioned in article 7323, for injuries resulting

from accidents caused by or in the course of the work of such person, only for the compensation prescribed by this subsection.

7336. All moneys paid by any insurance company or mutual benefit society, shall be applied, to the extent thereof, on account of the sums and rents payable in virtue of this subsection, if the employer proves that he has assumed the assessments or premiums demanded therefor. But the employer's liability shall continue if the company or society neglects to pay or becomes unable to pay the compensation for which it is liable.

7337. Workmen who usually work alone shall not be subject to this subsection from the fact of their casually working with one or more other workmen.

7338. The person injured shall be bound, if the employer requires him so to do, in writing, to submit to an examination by a practising physician chosen and paid by the employer, and if he refuses to submit to such examination or opposes the same in any way, his right to compensation as well as any remedy to enforce the same shall be suspended until the examination takes place.

The person injured, shall, in such case, always be entitled to demand that the examination shall take place in the presence of a physician chosen by him.

7339. Every agreement contrary to the provisions of this subsection shall be absolutely null.

#### Security.

7340. The claim of the person injured or of his representatives, for medical and funeral expenses, as well as for compensation allowed for temporary incapacity to work, shall be secured by privilege on the movable and immovable property of the employer, ranking concurrently with the claim mentioned in paragraph 9 of article 1994 of the Civil Code.

Payment of compensation for permanent incapacity to work, or in respect of an accident followed by death, shall so long as the compensation has not been paid, or so long as the sum necessary to procure the required rent has not been paid to an insurance company or otherwise paid in virtue of this subsection, be secured by a privilege of the same nature and rank upon movable property, and by a privilege upon immovable property, ranking after other privileges, and after hypothecs.

#### Procedure.

7341. The Superior Court and the Circuit Court shall have jurisdiction of every action or contestation in virtue of this subsection, in accordance with the jurisdiction given to them respectively, by the Code of Civil Procedure.

7342. Review and appeal of or from judgments susceptible thereof, shall be taken within fifteen days from the rendering of such judgments, and if not so taken the right thereto shall lapse. Such appeals shall have precedence.

7343. The Court or judge may, upon petition, at any stage of the case, whether before judgment or while an appeal is pending, grant a provisional daily allowance to the person injured or to his representatives.

7344. There shall be no trial by jury in any action taken in virtue of this subsection, but the proceedings shall be summary, and shall be subject to the provisions of the Code of Civil Procedure respecting such matters.

7345. The action to recover any compensation to which this subsection applies shall, as against all persons, be subject to a prescription of one year.

7346. An action to revise the amount of the compensation, based on the alleged aggravation or diminution of the disability of the person injured, may be taken during the four years next after the date of the agreement of the parties as to such compensation, or next after that of the final judgment.

7347. Before having recourse to the provisions of this subsection, the workman must be authorized thereto by a judge of the Superior Court upon petition served upon the employer. The judge shall grant such petition without the hearing of evidence or the taking of affidavits, but may before granting the same use such means as he may think useful to bring about an understanding between the parties. If they agree, he may render judgment in accordance with such agreement, upon the petition, and such judgment shall have the same effect as a final judgment of a competent court.

7347a. Nothing contained in this subsection (articles 7321 to 7347a), shall be interpreted as doing away with any of the common law rights of action belonging to any persons who cannot avail themselves of the said subsection. 1914, c. 57, s. 2.

#### Employment of Labour—General Provisions.

7415. This section applies to all parts of the province, except the cities of Quebec and Montreal (except as herein otherwise provided), and all other incorporated cities, towns and villages which have passed or may hereafter pass by-laws regulating the relations between master and servant.



7416. Every domestic, servant, journeyman or labourer, engaged by the week, month or year, and not by the piece or job, or for a fixed period, who intends to quit the service on which he is engaged at the expiration of his engagement, shall give at least one week's notice of such intention, if his engagement be by the week, two weeks' notice if it be by the month, and one month's notice if it be by the year; and if any such person quit the service without giving such notice, he shall be considered as having deserted from the said service and be punished accordingly.

7417. Every master, mistress or employer, shall give a like notice to any servant, journeyman or labourer, engaged by the week, month or year, whose services are no longer required; but any domestic, servant, journeyman or labourer, so engaged, may be discharged at or before the expiration of his engagement without notice, upon the full payment of the wages to which he would have been entitled had the term of service expired and had the required notice been given.

#### Penalties.

7418. Every apprentice, servant, journeyman or labourer, bound by act of indenture, or written contract or agreement, or verbally before one or more witnesses, for one month or for any longer or shorter time, who refuses or neglects to enter the service of his master, at the time agreed upon;

or  
 who is guilty of misbehaviour, refractory conduct or idleness, or of desertion; or  
 who absents himself by day or night, without leave, from the said service, or from the house or residence of his employer; or  
 who refuses or neglects to perform his just duties, or to obey the lawful commands which may be given him by his master or mistress; or  
 who is guilty of dissipating his master's or mistress' property or effects; or  
 who is guilty of any unlawful act that may affect the interest of his master or mistress, shall be liable to a penalty not exceeding twenty dollars.

7419. Every domestic, servant, journeyman or labourer, engaged by the month, or longer period, or by the piece or job, who deserts or abandons the service or job for which he was engaged, before the time agreed upon, shall, for each offence of such nature, be liable to the penalty provided in article 7418.

7420. For every offence against the preceding articles on the part of any servant or labourer engaged to work or serve in the woods and forests of this province, for the making of saw-logs or the manufacture of square or other commercial timber, or firewood of any kind, the offender may be prosecuted and convicted before any justice of the peace of the district wherein he contracted his engagement, or wherein he is apprehended, notwithstanding that the territory where the offence was committed may be without such district.

7421. Any person, knowingly harbouring or concealing any apprentice or servant, engaged by written agreement or verbally before witnesses, who has abandoned the service of his master or mistress; or

instigating or engaging or inducing any apprentice or servant to abandon such service; or

keeping such servant in his or her service, after being informed of the fact, shall, for such offence, be liable to the penalty provided in article 7418.

7422. Every master or mistress, who discharges his or her servant, without paying his wages as stated in article 7417, shall incur the penalty provided in article 7418.

7423. (1) Every master, mistress or employer, against whom any just cause of complaint exists on the part of his or her apprentice, domestic, servant, journeyman or labourer, bound or engaged as aforesaid, for any misuse, neglect to supply sufficient wholesome food, or for cruelty or illtreatment of any kind, shall, upon conviction, for each offence, be liable to a penalty not exceeding twenty dollars.

(2) In the cities of Quebec and Montreal, and in cities, towns and villages which have passed or may pass by-laws in that behalf, the penalty incurred by a master or by an apprentice, domestic, servant, journeyman or labourer for any infringement of the laws and by-laws governing the relations between masters and servants, shall be a fine not exceeding twenty dollars, any special law or by-law to the contrary notwithstanding, and, in default of the payment thereof, imprisonment not exceeding thirty days.

7424. The provisions of subsection I of this section apply to professional singers and actors in the city of Montreal, engaged by the day, week or month or for the season.

#### Prosecutions.

7425. Any complaint, founded upon an offence against any of the provisions of this section, may be heard and determined before any one justice of the peace, resident in the district where such offence was committed, who may, by warrant or summons, require the attendance of the offender before him, and upon the offender being brought

up under warrant, or if summoned, upon proof of the service of such summons, may, either in the absence or presence of the offender, determine such complaint in a summary manner, on the oath of any one or more credible witnesses, to be sworn before him, and may, if the offender be convicted, condemn him to the penalty imposed for the offence, and, in default of payment of the said penalty, with costs of suit, with or without delay, to imprisonment in the common goal of the district for not more than two months, unless the said penalty and costs of suit, together with the costs of apprehension and conveyance of the offender to the gaol, be sooner paid.

On a suit by a servant for wages, the defendant may plead the fact of such desertion, misconduct or disobedience hereinbefore mentioned, and on proof thereof and of the damages incurred in consequence by the defendant, it may be declared that the plaintiff has lost all recourse for his wages wholly or in part, in the discretion of the court, according to the circumstances.

7426. Upon complaint by any master, mistress or employer against his or her apprentice, servant or journeyman, or by any apprentice, servant or journeyman against his master, mistress or employer, of continued misconduct or misusage, and of repeated violations of the ordinary and established duties of the parties towards each other, or of incapacity to perform the services for which he is hired, two justices of the peace, resident in the district where the master or mistress lives, may, at a special session, upon due proof of the facts, annul the contract or agreement, whether written or verbal, by which such master, mistress or employer, and such apprentice, servant or journeyman, were bound to each other.

7427. All fines imposed by this section, when paid, shall be handed over to the sheriff of the district within which the offence was committed, to form part of the building and jury fund.

7428. The prosecution for any offence against the provisions of this section, shall be commenced within three months after the offence has been committed, and not thereafter.

#### Employment of Labour—Engagement of Voyageurs and Fishermen.

7429. 1. Every person who engages as a guide, conductor, canoe-man, bateau-man or winterer, or in any other quality or capacity, to perform a voyage to or from the province of Ontario, or to or from the Indian country, or to winter or to remain there for any time whatsoever, (save as hereinafter excepted), shall enter into an agreement for such purpose with the person with whom such person engages or his agent.

2. Such agreement shall not be valid unless made in writing and executed before a notary, or, where there is no notary, before at least two credible witnesses who can read and write, and who shall sign their names thereto; and every such agreement shall, besides such other particulars as the parties may agree upon, specify in what quality or capacity the person engages, what wages he is to receive for his services, and when and where payable, and the voyage or service he is to perform.

3. It shall not be necessary for the conductor of any bateau, or any bateau-man, to enter into any other than a verbal agreement for any voyage within the province or into Ontario, unless such voyage, if into Ontario, is to extend beyond the Bay of Quinte.

7430. If any person, so engaged under a written agreement, refuses or neglects to appear at the place agreed upon for the voyage or service for which he is engaged, after being duly notified for that purpose, or, appearing at such place, refuses or neglects to proceed upon the voyage or service for which he has been engaged, then on complaint and proof of any such refusal or neglect being made by the oath of any person or the agent of any person to whom such offender is engaged, before any justice of the peace, and such agreement, or an authentic copy thereof, being produced, such justice of the peace shall issue his warrant to any constable or other peace officer to apprehend and bring before him or any other justice of the peace for the district, the person so neglecting or refusing as aforesaid.

If such offender do not forthwith, on the order which may be then made by such justice, proceed upon the voyage or service agreed upon, or if the canoe or bateau in which such person was intended to proceed, have departed, then, unless such person was prevented from appearing or from proceeding by sickness or other unavoidable necessity, proved before such justice, either by the certificate of a licensed surgeon or of a cure, or by the oath of at least one credible witness before such justice of the peace, such offender shall, by such justice of the peace, be committed to the common gaol of the district, there to remain for at least fifteen days, unless the person to whom such offender is engaged, or his agent, sooner applies for such offender being discharged, in which case such justice of the peace, or any other justice of the peace for the district, to whom such application may be made, may, by order under his hand and seal, directed to the gaoler, cause such offender to be discharged; but no such discharge shall release any such offender from any claim against him by reason of any advances made to him in money or otherwise, on the faith of the agreement entered into by him.

### Desertion of Voyageurs.

7431. 1. If any person as aforesaid engaged under a written or verbal agreement, who, having entered upon the voyage or service for which he is engaged, afterwards absents himself from such voyage or service, without lawful cause, or deserts therefrom then, on complaint thereof being made upon oath, by the person to whom such offender was engaged, or by his agent, or by the person who had charge of such offender, or by any other person who may have knowledge of the fact, and the agreement for the voyage or service, or an authentic copy thereof being produced to such justice of the peace, the said justice of the peace shall issue his warrant directed to any constable or other peace officer of the district, to apprehend and bring the offender before him or any other justice of the peace of the district.

2. Such justice of the peace, with the assistance of some other justice of the peace, or any two justices of the peace for the district, shall inquire into the cause of such offender so absenting himself or deserting, and, if no lawful cause be proved, to the satisfaction of such justices of the peace, for such absence or desertion, then they shall, by warrant under their hands and seals, commit the offender to the common jail of the district, thereto remain for not less than one month, and not more than three months, without bail.

3. No such offender so committed to jail, shall be liable to any action or suit for the pecuniary damages suffered in consequence of his so absenting himself or deserting from the voyage or service he had engaged to perform, except only for the amount of the advances in money or goods made to such offender on the faith of the agreement entered into by him.

### Fines for Desertion, Etc.

7432. Any person who, having been engaged by any written agreement to fish on any conditions, or to assist in any fishery, or in the dressing of fish, refuses to fulfil any such engagement, or abandons his employer's service during his engagement, shall thereby incur a fine not exceeding forty dollars, over and above all costs, or imprisonment for not more than three months.

7433. Whoever engages or endeavours to engage any person then engaged as aforesaid, in any way to fish or to assist in any fishery or in the dressing of fish, shall thereby incur a fine not exceeding twenty dollars, over and above all costs, or imprisonment for not more than one month.

The owner or master of a vessel who receives on board, as a hand or passenger, any person so engaged in fishing or the dressing of fish, (unless in possession of a certificate of discharge from his employer), shall incur a fine of not more than twenty dollars, over and above all costs, or imprisonment for not more than one month.

### Fishermen's Liens.

7434. Each person engaged to fish, or assist at any fishery, or in the dressing of fish, either by written agreement or otherwise, shall, for securing his wages or share, have a first privilege preferable to any other creditor, upon the produce of his employer's fishery, and may recover the sum or share due to him before the nearest competent court.

7435. Except only for the recovery of penalties imposed under this section, no one shall, between the first of May and the first of November, seize or attach any boat or vessel, tackle, net, seine or other fishing utensils, or any provisions belonging to any fisherman and necessary for his subsistence or his fishing operations.

7436. Any person taking away, without the owner's consent, any boat belonging to another, shall, in addition to all damages, incur a penalty not exceeding twenty dollars, over and above all costs, or imprisonment for not more than one month.

### Workmen's Compensation—Accident Insurance.

7436a. It is forbidden for any employer to make any retention of any part of the salary or wages of his workmen or employees for purposes of insurance against accidents or sickness happening by reason of or in the course of their work, even with the consent of such workmen or employees. 1915, c. 71, s. 1, part.

7436b. Any agreement under which such a retention is made or authorized shall be null and of no effect. 1915, c. 71, s. 1, part.

7436c. In any case where such retention is made, the workman or employee, in the three months following the end of his contract of work, may recover, before any court of competent jurisdiction, the amount so irregularly withheld from his salary or wages. 1915, c. 71, s. 1, part.

[Section 3 of chapter 71, 1915, provides that articles 7436a, 7436b and 7436c "shall not apply to railway employees who individually, and in good faith, take out policies of insurance, and give written orders to their employers to pay the premiums out of their wages or salaries."]

## STATUTES OF 1914.

## Vocational Training—Establishment of Technical Schools.

Chapter 25.—1. In the interpretation of this Act, unless it be otherwise provided therein or the context otherwise indicates:—

(a) The words "public body" mean a corporation whose object is one of public interest, such as municipalities, religious bodies and school boards;

(b) The words "private body" mean a corporation whose objects are of a private nature, such as financial, commercial and industrial companies;

(c) The word "inspector" means the inspector general of industrial education in the province, who may be appointed by the Lieutenant-Governor in Council or, in his absence, any competent person designated by the Provincial Secretary.

## Incorporation.

2. Any public or private body, acting by its council and its Board of Commissioners, if one there be, or by its board of directors, as the case may be, or any persons, may, by observing the formalities hereinafter set forth, apply to the Lieutenant-Governor in Council and obtain from him a charter authorizing them and their successors to establish on such conditions as the Lieutenant-Governor in Council may be pleased to fix, a technical school or vocational course for the local needs of a specified district.

The provisions of article 5934 of the Revised Statutes, 1909, shall nevertheless continue to apply to any city, town or village council which avails itself of this Act to become a member of the corporation.

3. Notwithstanding any general or special law to the contrary, public or private bodies are vested with all the necessary powers for carrying out this Act, and are authorized to take from their general funds not otherwise appropriated the moneys required for the instalments of the amounts called for by their subscriptions.

4. (1) The applications for incorporation shall be made by petition to the Lieutenant-Governor in Council, be signed by at least five petitioners and filed with the provincial secretary.

(2) Such petition shall contain:

(a) The names, surnames, calling and domicile of the petitioners, who must be of the full age of 21 years and, if the petitioners are public or private bodies, the names of such corporations and a certified copy of the documents authorizing them to avail themselves of this act;

(b) The object for which the incorporation is sought;

(c) The proposed name of the corporation, which shall not be that of any known corporation or company, incorporated or unincorporated, or any name liable to be confounded with any other corporate name, or otherwise, on public grounds, objectionable;

(d) The place within the province which is to be the corporate seat of the corporation;

(e) The amount subscribed and the amount paid in by each petitioner and the manner in which the instalments have been paid, and are held by or for the corporation;

(f) The names, surnames, calling and domicile of the persons who are to be the first provisional directors of the corporation, the number whereof shall not be less than three nor more than eleven.

5. The petition shall be accompanied by the memorandum of agreement between the petitioners and a copy of the first by-laws of the corporation.

6. The petition and memorandum of agreement may be drawn up similar to, and shall in their essential features conform to the forms A and B.

7. (1) The memorandum of agreement shall be made out in duplicate and shall state, among other things;

(a) The measures taken to secure the success of the school;

(b) The amount to be subscribed and that to be paid into the general funds of the corporation by each member, and also the qualifications required of persons who may be elected directors;

(c) The manner in which the public or private bodies may vote by delegates;

(d) All other provisions which the petitioners may deem advisable or necessary to enter in their memorandum of agreement;

(2) The first by-laws shall, among other things:

(a) Specify the manner in which subscriptions shall be paid;

(b) Specify the amount to be subscribed and that to be paid in to entitle the subscriber to one or more votes, without distinction beyond that based on the amount subscribed and paid in;

(c) Direct the manner in which the first meeting shall be called, and how the first election of directors shall be held;

(d) Enact such other provisions as may be deemed advisable or necessary by the petitioners or by the Lieutenant-Governor in Council.

(8) The petition may ask for the insertion in the letters patent of any provisions which under this act or the general law may be stated in the memorandum of agreement or in the by-laws of the corporation; and the provisions so enacted shall not be repealed or amended by by-law, unless there be a proviso to that effect in the letters-patent.

9. The letters patent shall set forth such allegations of the petition and of the memorandum of agreement, mention whereof may be deemed necessary by the provincial secretary.

10. The Lieutenant-Governor in Council may give the corporation a name different from the one proposed by the petitioners, if the latter be objectionable.

11. After the formalities specified in this act are complied with, the Lieutenant-Governor in Council may grant the petitioners by letters patent under the great seal, a charter incorporating them and their successors, for the purposes mentioned in the petition.

The Lieutenant-Governor in Council may refuse to grant letters patent under this act for any reason he may think proper in the public interest.

12. Notice of the granting of the letters patent shall be forthwith given by the provincial secretary, by two insertions in the "Quebec Official Gazette," in the form C; and thereupon, from the date of the letters patent, the persons therein named, and such persons as have become subscribers to the memorandum of agreement or who thereafter become members of the corporation, and their successors, shall be a corporation, under the name mentioned in the letters patent.

13. The corporation may, at any time, by resolution adopted by the members representing at least two-thirds in value of the subscriptions, authorize the directors to apply for supplementary letters patent, extending or amending the powers, the granting whereof is authorized by this act, or changing the name of the corporation.

14. (1) Unless another delay be specified in the letters patent or in an act of the Legislature, the charter of the corporation shall *ipso facto* become null and void, if it have not availed itself of the charter during three consecutive years.

(2) The corporation shall not commence its operations until an amount of money has been subscribed and paid in which the Provincial Secretary shall deem sufficient to secure the success of the proposed school.

15. The Lieutenant-Governor in Council may, if he deem it expedient, fix and amend the tariff of dues payable on the application for letters patent and supplementary letters patent, and prescribe the method of registration to be observed with respect to such letters, and everything that may be necessary within the meaning of this act.

16. No letters patent or supplementary letters patent shall be granted under this act until all the dues that may be exigible thereon have been duly paid.

#### Powers of the Corporation.

17. The corporation shall have all the powers with which corporations created by the legislative authority of this province are generally vested.

It shall, in particular, have all powers which may be necessary to enable it to attain the end for which it was incorporated.

The liabilities of the members of the corporation shall be limited to the interest which each one may have therein. They shall be exempt from all personal recourse for the performance of the obligations which the corporation has contracted within the limits of its powers and with the necessary formalities.

18. The corporation shall be governed by a board of directors, elected annually and consisting of persons who may be elected directors in accordance with the by-laws of the corporation, and of the memorandum of agreement, if any.

19. Public or private bodies may be represented, on such conditions as they may determine, at the meetings of the members of the corporation, by one or more delegates, as the case may be, whose appointment they may revoke at will.

Such delegate or delegates shall exercise the right or rights of voting to which the amount subscribed or paid by each public or private body may entitle such body under the by-laws or memorandum of agreement.

20. The provisional board of directors appointed by letters patent shall remain in office until the expiration of the six months following the issue of the letters patent. The Provincial Secretary may, however, extend such delay for a period not exceeding three additional months; but in such case he must fix the date at which the meeting of the members for the election of directors shall be called.

21. Every public or private body, or every person who subscribes a sum of at least one thousand dollars to the general funds of the corporation, or any person whom such subscriber may designate in his place, shall be a life member of the corporation.

22. Every public or private body, or every person who subscribes the yearly sum fixed by the memorandum of agreement or by-laws, to the general funds of the corporation, shall be a member of the corporation; but such member may, by the vote of the directors, be declared to have forfeited his membership if he neglects to pay his contribution within the period of one year.

23. The by-laws of the corporation shall specify the number of directors to be elected by life members, and the number to be elected by the ordinary members.

24. Every public or private body, or every individual who establishes or founds, to the satisfaction of the directors, a vocational course or a chair, or gives the corporation furniture to an amount equivalent, in the opinion of the directors, to the contribution required for becoming a life member, or ordinary member, may be declared by the directors, in the case of a private individual, or may designate a person who shall be declared by the directors, in the case of a public or private body or of an individual, a life member or an ordinary member, as the case may be.

Every person who, by deed or gift or by will, or any public or private body which by deed of gift, makes a gift equivalent, in the opinion of the directors, to the amount of the contribution required for becoming a life member or an ordinary member, shall have the right to designate a person who may be declared by the corporation to be a life member or an ordinary member, as the case may be.

25. (1) The corporation shall each year at a general meeting choose from among the elected members of the board of directors a president, a vice-president and a secretary-treasurer. These officers shall remain in office at least one year unless it be otherwise specified by the by-laws. The president, in addition to his vote as director, shall have a casting vote on all questions when the votes are equally divided.

In the event of a vacancy, the president, vice-president and secretary-treasurer shall be replaced, but their successors shall be elected only for the unexpired terms of the officers whom they respectively replace.

(2) The signatures of the president or vice-president and secretary-treasurer shall in every case be sufficient to legally bind the corporation.

26. The principal of the school shall be appointed by the Provincial Secretary on the recommendation of the corporation. He shall be *ex-officio* a member of the corporation, and be specially charged, under the control of the administrative committee, and of the corporation, with the direction of the studies, the maintenance of order and discipline and, generally, with everything concerning the internal management of the school.

27. The corporation shall have the right to acquire movable and immovable property, by donation, legacy and purchase, and to perform all acts of ownership in connection therewith.

28. The corporation may also sue and be sued, borrow, sign, endorse, accept and negotiate promissory notes, bills of exchange and other commercial instruments, and become a party thereto under any title whatsoever, and shall, moreover, possess all the rights and powers belonging generally to corporations in so far as the present act does not derogate therefrom.

29. All property to be acquired and all revenues arising therefrom, shall be the exclusive property of the corporation, and shall be used solely for the purposes of the said corporation.

30. The net annual revenue of the immoveable property belonging to the corporation held for purposes of revenue, shall not exceed fifteen thousand dollars.

31. The corporation shall have power to make by-laws:

(1) To define the duties and functions of the professors and employees, and to fix their salaries;

(2) For the administration of the school, the conduct of the students, and the school fees payable by them;

(3) To establish a course of study in conformity with the spirit of this act;

(4) To determine the number of years of study;

(5) To determine the conditions of admission and examination;

(6) For the proper management of the affairs of the corporation generally, and for the proper working of the school. Such by-laws shall not, however, go into operation until sanctioned by the Lieutenant-Governor in Council.

32. Professors of theoretical and practical instruction shall be appointed or replaced by the board of directors, and be chosen, in preference, from the heads of industrial enterprises, foremen, employees and mechanics of the district.

33. The quorum for meetings of the corporations, and of the board of directors, shall be fixed by the by-laws.

34. The carrying out of the by-laws respecting the school adopted by the corporation, shall be entrusted to an administrative committee consisting of the principal and of two members appointed by the corporation.

The administrative committee shall render an account of its administration to the corporation.

35. A council of improvement, presided over by the inspector, assisted by the principal, two professors and by delegates, the number whereof shall be fixed by the corporation, and chosen from amongst the members of the corporation and the employers and mechanics of the district, shall consider the measures to be taken in the interest of technical studies and professional education, and submit propositions to the administrative committee. It shall meet at least twice a year.

36. The schools under the control of the corporation may be affiliated with existing technical, commercial or agricultural schools.

A school may also be annexed to any other school or college when an agreement has been arrived at between the corporations or individuals interested to utilize available premises or suitable plant.

37. The technical and practical instruction which shall be given in a technical school or vocational course shall be of an exclusively vocational nature.

The course of study shall be drawn up especially with a view to local needs, and be submitted on the inspector's report for approval to the provincial secretary.

38. The corporation shall deliver diplomas to the students according to the special course followed by each.

Mention shall be made in the diploma that the student has passed his examinations during the course in a satisfactory manner, or with distinction, or with great distinction, or with the greatest distinction, according to the disciplinary rules of the school.

Such diploma shall be signed by the principal of the school and be countersigned by the inspector.

39. The by-laws of the corporation shall provide for the appointment of a jury to examine students who wish to obtain a diploma at the conclusion of their studies.

The principal shall be *ex-officio* president of such jury, the members whereof shall, as far as possible, be chosen from among the expert mechanics and the employers of the district.

The inspector shall *ex-officio* be a member of the jury.

40. The corporation shall, whenever thereunto required by the Provincial Secretary, transmit to the Lieutenant-Governor in Council the names of its officers and members, a copy of its by-laws and courses of study, and a statement of its immovable property, and of the property it holds for revenue purposes.

41. Every year, before the 1st of September, the corporation shall send to the Provincial Secretary and to the inspector, a detailed report of the working of its courses, the efficiency of the school and the results obtained.

#### Appointment of an Inspector General of Technical Education.

42. The Lieutenant-Governor in Council may appoint an inspector general of technical education in the province, with a salary not exceeding twelve hundred dollars per annum.

The salary of this officer and his travelling expenses shall be paid out of the consolidated revenue fund.

The inspector-general shall perform the duties assigned him from time to time by the Lieutenant-Governor in Council.

#### Name and coming into force of Act.

43. This act may be cited under the title of "The Quebec Technical Schools Act, 1914," and shall come into force on the day of its sanction.

(Schedules omitted.)

#### Housing Accommodation for Workingmen.

Chapter 47.—1. In this Act, unless the context require a different interpretation,

(a) The word "company" means a company incorporated by charter of this Legislature, or by letters patent of this province, for the objects indicated in section 2;

(b) The words "assisted company" mean a company as defined by paragraph (a) of this section, whose loan has been guaranteed by a municipality under the provisions of this Act;

(c) The words "council" or "municipality" mean a city, town or village municipality situated in this province, and the body which, according to the laws in force in such municipality, has the right to make enactments or to administer for and in the name of the municipality.

When in any municipality there is a board of commissioners with administrative or executive powers, the council may avail themselves of all or any of the provisions of this Act only with the consent, given in advance, of such board;

(d) The word "obligations" includes all bonds, debentures, inscribed stock or other securities;

(e) The word "books" includes all documents in the possession of the assisted company.



2. A company incorporated with the object of acquiring lands in or near the boundaries of a municipality in the province, and to build on such land dwelling-houses of reasonable dimensions, supplied with proper improvements, and intended to be let at a moderate price, may avail itself of the provisions of this Act, by conforming to the conditions imposed thereby.

3. The council of any municipality may, to the extent and in the manner herein-after declared, guarantee as to principal and interest, loans sought to be made by a company, provided that it be shown:

(a) That additional dwelling-houses are required to properly house the people who live or work within its boundaries;

(b) That the object of the company is in good faith to furnish comfortable dwellings, and not to make a profit greater than that allowed by this Act;

(c) That the company, without making loans other than those of which a guarantee is sought, will be in a position to carry out the programme described in section 2, and in paragraph (b) of this section.

4. The by-law or the resolution respecting the guarantee of any loan shall, before having any force or effect, be approved by the majority in number and in value of such municipal electors, who are proprietors, as may vote on such by-law or resolution.

5. Such by-law or resolution shall not be submitted for the approval of such municipal electors until the complete plans and the lands of the assisted company have first been approved by the municipal council, and by the Board of Health of the Province of Quebec.

6. Such by-law or resolution shall be submitted to such electors for approval within six months after having been passed by the council; otherwise it shall become null and of no effect.

Nevertheless, in the cities of Quebec and Montreal it shall be sufficient if such by-law or resolution be approved by the vote of two-thirds of the members of the council, and, if there be one, by the Board of Commissioners, without requiring direct approval by the municipal electors who are property-owners.

7. The proceedings of the meeting of municipal electors and the vote on the question of approval of the by-law or resolution, shall be those, *mutatis mutandis*, prescribed by the charter of the municipality, by the general law applying thereto, or by both, for the approval of by-laws by municipal electors who are proprietors.

8. The guarantee authorized by this Act may be given by a municipality only in case the rights of such municipality are protected by one or more deeds of hypothec or deeds of trust by way of first mortgage upon the whole or part of the lands in question, with the houses and improvements built and made or to be built and made thereon.

Such deeds of hypothec or trust, once registered, shall constitute a valid guarantee in favour of the municipality notwithstanding any general law to the contrary.

9. The manner of making the loan, the nature of the document which evidences it, the form and the terms of the deeds of hypothec or of trust, the manner of repayment of the loan, the choice of trustee or trustees, if any there be, the form and manner of the guarantee, the time for the issue of securities, and the disposition of the moneys to be raised thereon by the assisted company which shall issue the same, the privileges which may be granted to tenants purchasing shares in the company, the manner of re-imbursing them for such shares, if they move away, and all other details necessary for the putting in operation of this Act, shall be according to the decision of the municipality.

10. If by reason of the guarantee authorized by this Act, any municipality shall become liable for certain sums of money, it may provide for the payment of the same out of the general funds of the municipality not otherwise disposed of, or by a special issue of debentures payable within a term not exceeding forty years from the date of issue thereof. Such special loan shall not be subject to the approval of the municipal electors or of the Lieutenant-Governor, alone or in council, notwithstanding the provisions of any public or private Act to the contrary.

11. The total amount of loan which may be guaranteed by a municipality, under this Act, shall not exceed eighty-five per cent of an amount to be fixed in the deed of hypothec or of trust as representing the value of the lands and houses and other improvements to be built and made thereon.

12. The said deed or deeds of hypothec or of trust may make any provision deemed suitable by the municipality and the assisted company, as regards either the manner of applying the funds of such company, the purchase of additional lands, the construction of houses and their accessories, or generally any other provisions in accordance with section 9 of this Act, which may be deemed useful to insure the proper putting into operation of this Act.

13. The council of any municipality which shall avail itself of this Act, may, from time to time, by resolution, appoint some person to represent such municipality on the directorate of the company; and the director so appointed, until such time as his

appointment be revoked by such council, shall have the same powers as any other director.

It shall not be necessary for the director so appointed by the council to possess the qualifications usually required of a director, and his appointment shall be valid whatever may be the number of directors fixed by the charter or the by-laws of such assisted company.

14. The books of the assisted company shall, every day, during ordinary office hours, be open to inspection by any person appointed by the council of the municipality in question to examine such books in order to ascertain whether the provisions of this Act have been obeyed.

15. No dividend upon the capital stock of the assisted company or other distribution of profits among the shareholders shall be declared or made in excess of six per cent per annum upon the amounts paid in.

If the dividend or profits paid or distributed in any one year do not amount to six per cent, the assisted company may make up the difference, with interest, so soon as the net profits of such company allow, in any subsequent year or years.

16. The net profits realized by such assisted company in any one year after deducting such sums as it must set aside to meet its debts and obligations, must be utilized, first for the payment of the dividends permitted by this Act, and then for the creation of a reserve fund of a reasonable amount to provide for unforeseen expenses. Any amount remaining must then be applied, as soon as possible, to the acquisition of new lands, the construction of new buildings, and all sorts of improvements within the powers of the company, or to the redemption of shares in the capital stock of the company in the manner hereinafter set forth.

17. The assisted company may, with the approval of the council of the municipality which has guaranteed its loan, expressed by way of resolution, pass a by-law authorizing the redemption, either wholly or in part, of the outstanding shares of its capital stock, on such terms and conditions as it may deem reasonable.

For the purposes of such redemption the assisted company may make use of all the funds at its disposal in the treasury, even including that which represents the amount paid in as the price of such shares.

No assisted company so redeeming the outstanding shares of its capital stock, may pay for the same any premium exceeding ten per cent of the actual amount paid in for such shares.

18. The assisted company shall be obliged to redeem the outstanding shares of its capital stock as provided in section 17, when, after the expiration of five years following the date at which the first guarantee was given, a positive demand to that effect is made, in the form of a resolution of the council of the municipality which has guaranteed its loan.

Any difficulty between the assisted company and the municipality respecting such redemption shall be submitted to the decision of a single arbitrator to be chosen by the parties.

If the parties cannot agree on an arbitrator, each party shall name a special arbitrator, and the two thus chosen shall choose a third.

If the two arbitrators cannot agree on a third arbitrator, the latter shall be appointed at the request of the parties by the judge in chambers of the Superior Court of the district.

The decision of the arbitrator or of a majority of the arbitrators, as the case may be, shall be final.

The failure of the assisted company to submit to the decision of the arbitrator or arbitrators, as the case may be, shall be a ground for request for the dissolution of such company, or for the annulment of the letters patent which incorporated the same.

19. The proceedings in dissolution or in annulment of letters patent shall be governed, *mutatis mutandis*, by articles 978 and following, or 1007 and following, as the case may be, of the Code of Civil Procedure.

The curator appointed to the property of the company, according to the ordinary rules applicable to dissolved corporations, shall pay, out of the assets, the debts of the company, and shall provide for the redemption of the shares, under the direction of the judge, and shall transfer the balance of the assets to the board of trustees hereinafter established.

20. The assisted company may, with the approval of the council of the municipality which has guaranteed its loan, expressed by way of resolution, establish, by notarial deed *en minute* and with the view of promoting the objects of this Act, a board of trustees, whose functions shall be to hold, on the terms and conditions set forth in the deed creating such trust, the shares, whether the same be redeemed, or given to the company or to the board.

21. The deed creating such trust must indicate the powers conferred on the board of trustees, provide for the appointment of successors to the first trustees, and reserve to the assisted company, subject to the approval of the municipal council, the right of

modifying the terms and conditions on which such board of trustees has been established.

The revenue of all property held in trust shall be employed only in the manner set forth in the deed creating the trust.

22. The assisted company shall be obliged to proceed to the establishment of the board of trustees above mentioned when, after the expiration of five years following the date at which the first guarantee was given, a positive demand to that effect is made, in the form of a resolution of the council of the municipality which has guaranteed its loan.

Any difficulty which may arise respecting the terms and conditions to be contained in the deed creating the board of trustees shall be submitted to the decision of an arbitrator or arbitrators, as provided in section 18.

23. The board of trustees, when all the shares of such assisted company have been transferred to it, shall constitute a corporation with perpetual succession, and may have a common seal which it may alter at its pleasure. It shall also possess, in the name given to it by the deed creating the trust, and under the restrictions and conditions therein set out, all the powers ordinarily possessed by corporations under the laws in force, including the capacity to acquire by purchase or donation, with the object of promoting the ends for which it was established.

However, the board may not alienate nor hypothecate any immovables that it may hold, unless it is so authorized by the deed creating the trust.

24. The board of trustees, when constituted a corporation, shall submit to the Lieutenant-Governor in Council, when required by the Provincial Secretary, a list of its members, a detailed statement of the immovable property it holds in trust, and a summary of its total revenue.

25. The council of any municipality which has guaranteed the loan of an assisted company shall be entitled to the recourse given by articles 992 and following of the Code of Civil Procedure, to compel the company, its directors and officers, or the board of trustees, when it is constituted a corporation, and its officers, to put in operation any one of the provisions of this Act, or of the directions issued thereunder.

26. In case of the liquidation of the assisted company, the municipality may appoint the board of trustees, but, to be valid, such appointment must be approved by the Lieutenant-Governor in Council.

27. The council of the municipality which has guaranteed the loan may, by by-law which need not be submitted to the electors for approval, appropriate, out of the general funds of the municipality not specially devoted to other purposes, such amount as it may deem necessary to redeem the shares of the assisted company.

28. Such shares, whether redeemed by the assisted company or given to it by a shareholder, shall not be deemed to be cancelled. They shall be held by the board of trustees for the purposes set forth in the deed creating the trust.

29. No shares of the capital stock of the assisted company shall be issued for any other consideration than for cash paid into the treasury of said company, and payments made by shareholders, or amounts received as gifts, shall not be used for expenditures other than those connected with the carrying out of the main purposes of the company, as set forth in section 2.

30. This Act shall come into force on the day of its sanction.

## STATUTES OF 1915.

### Incorporation of Association for providing Workingmen's Houses.

Chapter 128.—1. Messrs. Charlemagne Rodier, advocate; J. A. A. Brodeur, advocate; E. E. Fontaine, manager; Maurice Larose, manager, and Adolphe Lecours, manufacturer, all of the city of Montreal in the Province of Quebec, and all other persons who may become shareholders in the association, are incorporated under the name of "La Société des Logements Ouvriers."

2. The provisional directors shall be the persons above-mentioned.

3. The head office of the association shall be in the city of Montreal.

4. The association shall consist of:

(a) Shareholder members, who shall be subscribers to the capital stock of the association;

(b) Registered members, comprising all labourers, carters, carpenters, joiners, bricklayers, plasterers, roofers, plumbers, stonecutters, masons, cement-finishers, painters, electricians, and all other workmen who, by a written application, express their intention of participating in the advantages of the association;

(c) Beneficiary members, the name given to registered members when they have had placed to their credit, in the association's records, a number of hours' labour, representing an amount of at least twenty-five dollars.

5. The association shall be managed by a board of directors, consisting of five elected yearly, by the shareholder members and beneficiary members. Each share-

holder member shall have one vote for every share he holds, and each beneficiary member shall likewise have a vote for every hundred dollars of accumulated work.

6. The object of the association is to acquire land within the district of Montreal where the registered and beneficiary members shall devote the time during which they are unemployed, in building dwelling houses on such land, of reasonable dimensions, provided with suitable and separate conveniences, and to allow them to become owners thereof at moderate prices and on the conditions mentioned in this Act.

7. As soon as the association has acquired the necessary land in a municipality, it shall have plans of houses prepared which shall be on exhibition in its offices, and be numbered separately.

8. Such house plans must be previously approved by the council of the municipality where the association will carry on its operations, or must be in conformity with the provisions of the by-laws of such municipality as the case may be, and the plumbing work shall be done according to the health by-laws of the city of Montreal.

9. Every person qualified to be a registered member of the association may form part thereof by signing a written application to that effect.

10. His name shall then be entered in the books of the association according to the date of his application, and be given a serial number according to his application for admission, saving the associations' rights to refuse the registration if the candidate cannot furnish satisfactory references or certificates as to his standing.

11. Every registered member shall, as soon as he is admitted to the association, choose, from among the exhibited and approved house plans provided for above, the house he intends to acquire.

12. After registration, all members may work on the land belonging to the association at building houses pointed out to them and under the direction of persons chosen by the association.

13. The association shall keep an account, in books devoted to such purpose, of the number of hours' labour contributed by each registered member, and, at the same time, of the price represented by such labour; it shall give each registered member a numbered pass-book in which his hours' labour and the said price shall be entered, and which shall be an exact copy of each registered member's account as it stands in the association's books.

14. The value allotted by the association to the labour of each registered member shall be equal to the price fixed by labour associations affiliated to the Dominion Trades and Labour Congress or eligible for such affiliation for the same kind of labour, and the association shall fix the working hours in accordance with the by-laws of such associations.

15. The value of the labour which shall be required from every beneficiary member to allow of his becoming the owner of a house like that whose plan he has chosen, shall be strictly limited to the cost of the land, materials, labour and management; an estimate shall be made in advance for every house the plan whereof is exhibited, and such estimate shall be mentioned on such plan and on the application form to be signed by each member, but the beneficiary member shall only pay the actual cost of the house as established when the house is completed. Nevertheless, as regards extra work which a member may require for his house, such work shall be allowed on the conditions granted by this section, provided such work does not injuriously affect the general plan, and is approved by the board of directors.

16. The amount of work placed to the credit of all registered or beneficiary members, and their interest in the association, shall not be liable to seizure.

17. The board of directors shall alone see to the acquisition of the land and materials required, as well as the advancing of the necessary money for building the houses. It shall have the right to keep for the benefit of the association the twelfth of every dozen houses built under this act.

18. The beneficiary members may take possession of the houses as owners when they are completed.

19. When a house is finished, the right to take possession thereof as owner, shall be sold by auction to the highest bidder among the beneficiary members, and the premium realized shall be credited as receipts for the benefit of the association. The sale shall be made at the head office of the association, and notice thereof shall be given by letters mailed to the beneficiary members, to their last address as shown on the society's books, at least fifteen clear days before the day of the sale. Nevertheless, no member can acquire more than one house from the association.

20. A member shall always have the right to transfer his interest in the association by following, as far as possible, the formalities prescribed by the Quebec Companies' Act relating to the transfer of shares. The association may make any by-laws to that effect based on the said Quebec Companies' Act.

21. As soon as a beneficiary member takes possession of a house, the association shall give him a title deed of ownership, stating the purchase price, and acknowledging the payment of a sum equal to the amount of labour appearing to his credit in the association's books and in his pass-book.

The association shall have an hypothecary right on the said house for the balance remaining due, without interest.

22. The members shall have the advantage of continuing to have hours of labour put to his credit until the purchase price mentioned in his title deed is paid, and the association shall give him every year an acquittance equivalent to the labour he has had put to his credit during that period.

23. In the event of the death or infirmity of a beneficiary member before entering into possession of his house the association shall, within thirty days, repay in money the value of the labour to his credit, to his heirs or legal representatives, or to himself, as the case may be.

24. An heir or representative, qualified to be registered as a beneficiary member, may, however, avail himself of the advantages, to which the deceased or infirm member was entitled, by assuming his obligations.

25. After a beneficiary member has taken possession of his house, he shall be bound to work each year for the benefit of the association to the extent of one hundred dollars; in default of supplying such work, he shall pay in money the equivalent of such sum, or the amount necessary to complete it; this amount of one hundred dollars shall be credited to him on the balance remaining due by him.

26. Any beneficiary member who wishes to abandon his rights in the association, may claim therefrom a sum equal to one-half the value of his work as entered in his pass-book.

27. The association shall send to each of its members an annual report certified by a licensed auditor, and its books shall be open to examination by its members.

28. The association may make agreements with any transportation company calculated to promote the objects for which it is incorporated; provided, however, that such agreements do not violate any of the provisions of the by-laws of the city of Montreal.

29. The association may, if it deems proper, pay in money a portion of the wages credited to the beneficiary members with their consent, but, in such case, the value of the labour so remunerated shall not be entered in such member's accounts, nor in their pass-books.

30. The council of a municipality may guarantee the capital and interest of the loans to be affected by the association, and, in such case, the provisions of the act 4 George V, chapter 49, relating to loans with guarantees, shall apply.

31. No contract shall be signed by the beneficiary members for the purchase of sanitary houses under the provisions of this Act, unless the price and other conditions be approved by a board of censors whose further duty it shall likewise be to decide all disputes that may arise between the board of directors and the beneficiary members in connection with the carrying out of such contract.

The board of censors shall consist of three members, one of whom shall be elected by the board of directors, and the two others from among the workmen belonging to the labour unions above mentioned, with the approval of the majority of the beneficiary members present at a meeting duly called for the purpose; and the decisions of such board shall be final.

32. Nothing in this Act shall have the effect of withdrawing the corporation from being governed by the provisions of the charter, laws and by-laws of any municipality where the said corporation may exercise its powers, nor by the provisions of the Quebec Public Health Act.

33. The capital stock of the association shall be one hundred thousand dollars, divided into one thousand shares of one hundred dollars each, of which fifty per cent shall be paid in cash and deposited in a bank holding a Canadian charter, before beginning operations.

34. The profits which the association may make shall be divided among the shareholder members and the beneficiary members, according to their respective interests.

35. All hypothecs due to the association by the beneficiary members under section 21 of this Act, shall be deposited in trust with a registered trust company to guarantee the accumulated work of the beneficiary members who have not as yet been put in possession of their houses.

36. No directors of the association shall sell either land or materials to the association under a penalty of one hundred dollars upon summary conviction before a police magistrate, and, in default of payment of the fine, of an imprisonment not exceeding three months.

37. In case of liquidation of the association, the procedure to be followed will be that prescribed by law for building societies.

38. On or before the 1st of February each year the association shall furnish the Provincial Treasurer with a sworn statement certified to by the president or vice-president, and the manager or secretary, showing the authorized capital of the association, the amount subscribed and the proportion paid up, the assets and liabilities of the association, the number of registered and beneficiary members, and all such other details which the Provincial Treasurer may require. This statement shall be published at the expense of the association, in the Quebec Official Gazette for two weeks.

39. This act shall come into force on the day of its sanction.

## ONTARIO.

## REVISED STATUTES OF 1914.

## Protection of Employees as Voters—Time to Vote.

Chapter 8.—112. A voter entitled to vote within a city or town shall, on the day of polling be entitled to absent himself for the purpose of voting from any service or employment in which he is then engaged or employed, from the hour of noon until the hour of two of the clock next thereafter, and a voter shall not, because of his so absenting himself, be liable to any penalty, or suffer or incur any reduction from the wages or compensation to which but for his absence he would have been entitled, but this section shall not apply where a voter is by his employer permitted or allowed at any other period during the hours of polling, reasonable and sufficient time and opportunity to vote.

173. (1) Every person who, directly or indirectly, himself, or by any other person on his behalf, uses or threatens to use force, violence, or restraint, or inflicts or threatens to inflict injury, damage, harm or loss, or in any manner practises intimidation upon or against a voter in order to induce or compel him to vote, or refrain from voting, or on account of his having voted or refrained from voting, or who, by abduction, duress, or false or fraudulent pretence, device or contrivance, impedes, prevents, or otherwise interferes with the free exercise of the franchise of a voter or thereby compels, induces or prevails upon a voter to vote or refrain from voting, shall be guilty of a corrupt practice and shall incur a penalty of \$200, and shall also upon conviction be imprisoned for one year.

(2) It shall be a false pretence within the meaning of this section to represent to a voter, directly or indirectly, that the ballot to be used, or the mode of voting at an election, is not secret.

## Inspection and Regulation of Mines.

Chapter 32 with amendment.—1. This Act may be cited as The Mining Act of Ontario.

2. In this Act,

(a) "Agent" where it occurs in Parts IX. and X. shall mean any person having, on behalf of the owner, the care or direction of a mine, or of any part thereof

(b) "Commissioner" shall mean the Mining Commissioner.

(d) "Department" shall mean the Department of Lands, Forests and Mines.

(e) "Deputy Minister" shall mean the Deputy Minister of Mines.

(g) "Inspector" shall include an inspector appointed under this Act, for a Mining Division or any part thereof, or for Ontario, and any officer having the powers of an inspector.

(h) "Licensee" shall mean a person, mining partnership or company holding a miner's license issued under this Act or any renewal thereof.

(i) "Machinery" shall include steam and other engines, boilers, furnaces, stamps and other crushing apparatus, winding and pumping gear, chains, trucks, tramways, tackle blocks, ropes and tools, and all appliances used in or about or in connection with a mine.

(j) The noun "mine" shall include any opening or excavation in, or working of, the ground for the purpose of winning, opening up or proving any mineral or mineral-bearing substance, and any ore body, mineral deposit, stratum, soil, rock, bed of earth, clay, gravel or cement, or place where mining is or may be carried on, and all ways, works, machinery, plant, buildings and premises below or above ground, belonging to, or used in connection with, the mine, and also for the purposes of Parts IX and X, any excavation or opening in the ground made for the purpose of searching for mineral, and any roast yard, smelting furnace, mill, work or place used for or in connection with crushing, reducing, smelting, refining or treating ore, mineral or mineral bearing substance.

(k) The verb "mine" and the word "mining" shall include any mode or method of working whereby the soil or earth or any rock, stone or quartz may be disturbed, removed, washed, sifted, roasted, smelted, refined, crushed or dealt with for the purpose of obtaining any mineral therefrom, whether the same may have been previously disturbed or not, and also for the purposes of Parts IX and X of this Act all operations and workings mentioned in paragraph (j) of this section.

(l) "Mineral" shall include coal, gas, oil and salt.



(o) "Minister" shall mean the Minister of Lands, Forests and Mines.

(p) "Owner" when used in Parts IX and X' of this Act shall include every person, mining partnership, and company being the immediate proprietor or lessee or occupier of a mine, or of any part thereof, or of any land located, patented or leased as mining lands but shall not include a person, or a mining partnership or company receiving merely a royalty, rent or fine from a mine or mining lands, or being merely the proprietor of a mine or mining lands subject to a lease, grant or other authority for the working thereof, or the owner of the surface rights and not of the ore or minerals.

(s) "Prescribed" shall mean prescribed by this Act or by Order in Council or by rule or regulation made under the authority of this Act.

(u) "Regulation" shall mean a regulation made by the Lieutenant-Governor in Council under the authority of this Act.

(v) "Shaft" shall include a pit.

#### Bureau of Mines.

4. The Bureau of Mines established in connection with the department, to aid in promoting the mining interests of Ontario, shall be continued, and the Deputy Minister shall have charge thereof under the direction of the Minister.

5. The Deputy Minister shall have all the powers, rights and authority of an inspector, and such other powers, rights and authority for carrying into effect the provisions of this Act as may be assigned to him by regulation.

#### PART IX.—OPERATION OF MINES.

##### Regulations.

157. No boy or girl under the age of fourteen years shall be employed in or about any mine, and no boy under the age of seventeen years shall be employed below ground in any mine.

158. Except as stenographer, book-keeper or in some similar capacity, no girl or woman shall be employed at mining work or allowed to be for the purpose of employment at mining work, in or about any mine.

159. (1) No workman shall remain or be allowed to remain underground in any mine for more than eight hours in any consecutive twenty-four hours, which eight hours shall be reckoned from the time he arrives at his place of work in the mine until the time he leaves such place, provided, however, that

(a) A Saturday shift may work longer hours for the purpose of avoiding work on Sunday or changing shift at the end of the week or giving any of the men a part holiday.

(b) The said limit of time shall not apply to a shift boss, pump man, cage-tender, or any person engaged solely in surveying or measuring, nor shall it apply in cases of emergency where life or property is in imminent danger, or in any case of repair work, or to any mine where the number of men working in a shift does not exceed six.

(2) In this section

"Workman" means any person employed underground in a mine who is not the owner or agent or an official of the mine.

"Shift" means any body of workmen whose hours for beginning and terminating work in the mine are the same or approximately the same.

(3) Where any question or dispute arises as to the meaning or application of clause (b) of subsection (1), or as to the meaning of "workman," "shift," or "underground," the certificate of the Inspector shall be conclusive.

(4) For greater certainty it is hereby declared that sections 174, 175, 179, 180 and 181 of this Act shall apply to contraventions of this section; provided, however, that a workman shall not be guilty of an offence for failure to return to the surface within the time limited by this section if he proves that without fault on his part he was prevented from returning owing to means not being available for the purpose.

(5) In the event of great emergency or grave economic disturbance, the Lieutenant-Governor in Council may suspend the operation of this section to such extent and for such period as he deems fit; or upon the Inspector certifying as regards any iron mine that the precautions, safeguards and arrangements for protecting the health, safety and comfort of the workmen employed therein are satisfactory and in compliance with this Act, the Lieutenant-Governor in Council may, upon the recommendation of the Minister, in like manner suspend the operation of this section in so far as such mine is concerned.

(6) This section shall come into effect on the first day of January, 1914, in all those parts of the Province without county organization, and in the remaining parts of the Province at such time as may be named by the Lieutenant-Governor by his proclamation.

160. (1) No person under the age of twenty years shall be allowed to have charge of any hoisting engine by means of which persons are hoisted, lowered or hauled in a shaft, incline or level at any mine.



(2) No person under the age of eighteen years shall be allowed to have charge of any hoisting engine or hoisting apparatus of any kind at a mine.

161. Where any person contravenes any of the next preceding four sections, the owner and the agent of the mine shall also each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means to prevent such contravention by publishing and to the best of his power enforcing the provisions of this Act.

162. Where a mine has been abandoned or the working thereof has been discontinued, the owner or lessee thereof and every other person interested in the minerals of the mine shall cause the top of the shaft and all entrances from the surface, as well as all other pits and openings dangerous by reason of their depth, to be and to be kept securely fenced; and if any person fails to act in conformity with this section he shall be guilty of an offence against this Act, and any shaft, entrance, pit or other opening which is not so fenced shall be deemed to be a nuisance.

#### Inquest to be held in Case of Fatality.

163. (1) The coroner who resides nearest to a mine wherein or in connection where-with any fatal accident has occurred, shall forthwith conduct an inquest, but if he is in any way in the employment of the owner or lessee of the mine he shall be ineligible to act as coroner, and any other coroner shall, upon application by any person interested, forthwith issue his warrant and conduct such inquest, and this section shall be his authority for so doing whether his commission extends to such territory or not.

(2) The inspector and any person authorized to act on his behalf shall be entitled to be present and to examine or cross-examine any witness at every inquest held concerning a death caused by an accident at a mine, and if the inspector or some one on his behalf is not present, the coroner shall, before proceeding with the evidence, adjourn the inquest and give the Deputy Minister not less than four days' notice of the time and place at which the evidence is to be taken.

#### Rules for Protection of Miners.

164. The following rules shall be observed and carried out at every mine, except in so far as the inspector may deem the same not reasonably practicable;

##### Sanitation.

1. An adequate amount of ventilation shall be constantly produced so that the shafts, adits, tunnels, winzes, raises, sumps, levels, stopes, cross-cuts, underground stables and working places of the mine and the travelling roads to and from such working places shall be in a fit state for working and passing therein.

2. In every working mine which is entered by a shaft and operated to a greater depth than 100 feet, and in every mine which is entered by an adit or tunnel and operated to a greater distance than 300 feet from the entrance to the adit or tunnel, the inspector may require a sufficient number of portable watertight privies to be provided for the underground employees of the mine, and such privies shall be taken to the surface and thoroughly cleansed every twenty-four hours.

##### Care of Explosives.

3. No magazine for explosives shall be erected or maintained nearer than four hundred feet from the mine and works, or any public highway, except with the written permission of the inspector, and every such magazine shall be constructed of materials and in a manner to insure safety against explosion from any cause, and shall be either so situated as to interpose a hill or rise of ground higher than the magazine between it and the mine and works, or an artificial mound of earth as high as the magazine and situate not more than 30 feet from it shall be so interposed.

4. Cases containing explosives shall not be opened in the magazine, and only implements of wood, brass or copper shall be used in opening the cases.

5. In sinking shafts or winzes all firing shall be done by means of electric current; but this shall not apply to claims not patented or leased.

6. Explosives stored underground in a working mine shall be kept in securely covered and locked boxes, and, where thawed underground shall be kept in an unused part of the mine, never less than ten feet from lines of underground traffic nor less than one hundred and fifty feet from places where drilling and blasting are carried on, and shall at all times be in charge of a specified man fully qualified by his experience to take charge thereof.

7. No explosives in excess of a supply for twenty-four hours shall be stored underground in a working mine.

8. Fuses, blasting-caps and electric detonators shall be kept in a place of safety and shall not, nor shall any article containing iron or steel, be kept or stored in the same magazine or thawing-house with explosives or nearer than 50 feet therefrom.

9. Whenever a workman opens a box containing explosives, or in any manner handles the same, he shall not permit any lighted lamp or candle to come closer than five feet to such explosives, and a workman with a lighted lamp, candle, pipe or any other thing containing fire shall not approach nearer than five feet to an open box containing an explosive.

10. The manager, captain or other officer in charge of a mine shall make a thorough daily inspection of the condition of the explosives in or about the same, and shall make an immediate investigation when an act of careless placing or handling of explosives is discovered by or reported to him;

(a) Any employee who commits a careless act with an explosive or where explosives are stored, or who, having discovered it, omits or neglects to report immediately such act to an officer in charge of the mine, shall be guilty of an offence against this Act, and the officer in charge of the mine shall immediately report such offence to the Inspector or to the Crown Attorney of the county or district in which the mine is situate.

11. A suitable house in which to thaw explosives shall be built separate from the other mine buildings and shall be equipped with suitable apparatus for thawing explosives approved by the Inspector, and shall be under the direction of the mine foreman or some other careful and experienced workman. Whenever deemed necessary by the Inspector, suitable apparatus for thawing explosives shall also be provided for use in the mine and shall be used only under the direction of the mine foreman or of some other careful and experienced workman. The quantity of explosives brought into the thawing house shall not at any time exceed the requirements of the mine for a period of twenty-four hours, except where such requirements would be less than one hundred pounds.

12. A reliable recording thermometer shall be kept in the room in which explosives are thawed and the record thereof kept.

13. In charging holes for blasting, no iron or steel tool or rod shall be used, and no iron or steel shall be used in any hole containing explosives, and no drilling shall be done in any hole that has been blasted, nor shall any iron or steel tool be introduced into the bottom of any such hole. -

14. When a miner fires a round of holes he shall count the number of shots exploding, except in case of instantaneous blasting by electricity. If there are any reports missing he shall report the same to the mine captain or shift boss. If a missed hole has not been fired at the end of a shift, that fact, together with the position of the hole, shall be reported by the mine captain or shift boss to the mine captain or shift boss in charge of the next relay of miners, before work is commenced by them.

15. A charge which has missed fire shall not be withdrawn, but shall be blasted, and no drilling shall be done in the working place where there is a missed hole or a cut-off hole containing explosive until it has been blasted.

16. All drill holes, whether sunk by hand or machine drills, shall be of sufficient size to admit of the free insertion to the bottom of the hole of a stick or cartridge of powder, dynamite or other explosive, without ramming, pounding or pressure.

17. No explosives shall be used to blast or break up ore, salamander or other material where by reason of its heated condition there is any danger or risk of premature explosion of the charge.

18. No explosive shall be used at any mine, unless there is plainly printed or marked on every original package containing such explosive the name and place of business of the manufacturer, and the strength, and the date of its manufacture.

#### Time of Blasting.

19. Where parties working contiguous or adjacent claims or mines disagree as to the time of setting off blasts, either party may appeal to the inspector, who shall decide upon the time at which blasting operations thereon may be performed, and the decision of the inspector shall be final and conclusive and shall be observed by them in future blasting operations.

#### Protection in Working Places.

20. On every level in which mechanical haulage is employed, there shall be at intervals of not more than one hundred yards a place of refuge, affording a space of at least three feet of width between the widest part of the car or train running on the tramway, and the farthest side of the place of refuge.

21. Every man-hole and space for a place of refuge shall be constantly kept clear, and no person shall place anything in a man-hole or in such space in a position to prevent convenient access thereto.

22. Where a drift extends from a shaft in any direction on a level, a safe passage-way and standing room for workmen shall be made on one or both sides of the shaft to afford protection against falling material.

23. Where a shaft is being sunk below a level from which material is being hoisted in the same shaft a suitable covering of rock, timber, iron, steel or other metal shall be

provided under the hoisting compartment of the shaft immediately below the level for the protection of the workmen in the shaft; and such covering shall be sufficiently strong to withstand the shock of the loaded bucket, skip or cage falling from the highest point in the shaft.

24. The top of every shaft shall be securely fenced or protected by a gate or guard rail, and every pit or opening dangerous by reason of its depth shall be securely fenced or otherwise protected.

25. At all shaft and winze openings on every level, a gate or guard rail, not less than three feet or more than four feet above the floor, shall be provided and kept in place except when the cage, skip or bucket is being loaded or unloaded at such level.

26. Where the enclosing rocks are not safe every working or pumping shaft, adit, tunnel, stope or other working in which work is being carried on, or persons passing, shall be securely cased, lined or timbered, or otherwise made secure.

27. The top of every mill hole in a stope shall, as far as practicable, be kept covered.

28. Every working mine shall be provided with suitable and efficient machinery and appliances for keeping the mine free from water, the accumulation or flowing of which might injuriously affect any other mine.

#### Ladder-ways.

29. The ladder or passage-way in a shaft or winze shall be separated by a closely boarded partition from the compartment or division of the shaft or winze in which the material is hoisted.

30. A suitable footway or ladder, inclined at the most convenient angle which the space in which the ladder is fixed allows, shall be provided in every working shaft, and every such ladder shall have a substantial platform at intervals of not more than twenty feet, and shall not be fixed for permanent use in a vertical or overhanging position, and all ladders in shafts shall project at least two feet above the platform, and all holdfasts shall be of iron, securely fixed in the shaft casing. The platform shall be closely covered, with the exception of an opening large enough to permit the passage of a man's body, and shall be so arranged in vertical or steeply inclined shafts and winzes that it would not be possible for a person to fall from one ladder through the opening to the ladder below.

#### Raising or Lowering Persons.

31. No person shall be lowered or hoisted, or allow himself to be lowered or hoisted, in a shaft, winze or other underground opening of a mine:

(a) In a bucket or skip, except that men employed in a shaft sinking shall be allowed to ascend and descend to and from the nearest level or other place of safety by means of the bucket or skip used for hoisting material, but there shall always be a suitable ladder in the shaft to provide an auxiliary means of escape.

(b) In a cage or skip, except as provided in clause (a), which is not provided with a hood, dogs and other safety appliances approved by the Inspector;

(c) In a cage or skip where a detaching hook or other device approved by the Inspector to prevent overwinding in mines of upwards of 1,000 feet vertically in depth are not provided;

(d) Where no indications other than marks on the rope or cable are used to show to the person who works the machine or hoisting engine the position of the cage in the shaft;

(e) Where the rope or cable passes through blocks instead of passing over a sheave of a diameter suited to the diameter of the rope or cable and properly mounted on a secure head-frame.

The owner of every mine shall post and maintain at the mouth of the shaft or other conspicuous place a printed copy of this rule, and where the same has been posted and maintained in case of an accident occurring as a result of a violation of this rule the owner shall not be liable for damages except upon proof that he has permitted or authorized the employment of means herein prohibited for raising and lowering workmen in a mine, or that a suitable manway has not been provided.

32. Whenever a mine shaft exceeds four hundred feet in vertical depth, a safety cage shall be provided, kept and used for lowering and raising men in the shaft, unless otherwise directed in writing by the Inspector.

32a. (1) All cages or skips used for lowering or raising men shall be constructed as follows:—

(a) The hood shall be made of steel plate not less than three-sixteenths of an inch in thickness;

(b) The cage shall be provided with sheet iron or steel side casing not less than one-eighth of an inch in thickness, or with a netting composed of wire not less than one-eighth of an inch in diameter, and with doors made of suitable material;

(c) The doors shall extend at least five feet above the bottom of the cage, and shall be closed when lowering or hoisting men;

(d) The cage shall have overhead bars so arranged as to give every man an easy and secure handhold;

(e) The safety appliances shall be of sufficient strength to hold the cage or skip with its maximum load at any point in the shaft;

(f) The cage shall not have chairs attached thereto which are operated by a lever through or from the floor.

(2) This section shall come into force on the 1st day of January, 1915. 1914, c. 14, s. 7.

#### Shaft Equipment, etc.

33. All crossheads must be provided with a safety appliance so constructed that the crossheads cannot stick in the shaft without also stopping the bucket.

34. Skipways shall be provided with back timbers to prevent skips leaving the track where such skipways are inclined at more than 60 degrees from the horizon, unless otherwise directed in writing by the inspector.

35. Hoisting with horse and pulley-block is forbidden where the depth of a shaft is more than seventy-five feet.

36. No open hook shall be used in hoisting or lowering.

37. On the drum of every machine used for lowering or raising persons there shall be such flanges or horns, and also, if the drum is conical, such other appliances as may be sufficient to prevent the rope or cable from slipping.

38. To every hoisting machine used for lowering or raising persons or materials there shall be attached a brake adequate to hold at any point in the shaft the weight of the skip, bucket, or other vessel used when filled with ore, and in any shaft of greater depth than two hundred feet there shall also be in addition to any mark on the rope or cable a geared indicator which will show to the person who works the machine the position of the cage or load in the shaft.

39. No person shall ride upon or against any loaded car in any level, drift or tunnel in or about any mine.

#### Scaling, Escapement, Shafts, etc.

40. The manager or captain or other competent officer of every mine shall examine at least once every day all working shafts, levels, stopes, tunnels, drifts, crosscuts, raises, signal apparatus, pulleys and timbering in order to ascertain that they are in a safe and efficient working condition, and he shall inspect and scale, or cause to be inspected and scaled, the walls and roofs of all stopes or other working places at least once every week, and shall enter the record of such scaling operations in a book kept for that purpose in the mine office.

41. Every person who has sunk in any mine a vertical or inclined shaft to a greater depth than 100 feet, and who has drifted a distance of 200 feet or more from the shaft and has commenced to stope, shall provide and maintain, in addition to the hoisting shaft or the opening through which men are let into or out of the mine and the ore is extracted, a separate escapement shaft or opening. Such auxiliary exit shall not be less than 50 feet from the main hoisting shaft and shall not be covered by any inflammable structure. If such an escapement shaft or opening is not in existence at the time that stoping is commenced, work upon it shall be begun as soon as stoping is commenced, and shall be diligently prosecuted until the same is completed, and the escapement shaft or opening shall be continued to and connected with the lowest workings in the mine. The escapement shaft or opening shall be of sufficient size to afford an easy passageway, and shall be provided with good and substantial ladders from the deepest workings to the surface. With the exception of any erection used solely as a shaft-house, no permanent building, for any purpose, shall be erected within fifty feet of the mouth of a mine, unless there is such an auxiliary exit. No boiler shall be installed in any building within 50 feet of the mouth of any shaft.

Provided that where the timber and wood in the hoisting shaft of a mine are constantly wet, and in the opinion of the inspector it is not necessary for the safety of the workmen that the escapement shaft or opening be continued to and connected with the lowest workings, he may in writing so certify, and thereupon such requirement shall not apply to such mine, but the inspector may require any other precautions to be taken which he may deem necessary.

42. All timber not in use to sustain the roof or walls or any part of a mine shall as soon as practicable be taken from the mine and shall not be piled up and permitted to decay therein.

43. All oils and other inflammable materials shall be stored or kept in a building erected for that purpose, and at a safe distance from the powder magazine and from the main buildings, and shall be removed therefrom for use in such quantities only as are necessary to meet the requirements of one day.

## Signals.

44. Every working shaft which exceeds 50 feet in depth, unless otherwise permitted in writing by the Inspector, shall be provided with some suitable means of communicating by distinct and definite signals from the bottom of the shaft and from every level for the time being in work between the surface and the bottom of the shaft, to the hoist room.

45. All methods of signalling in a mine shall be printed and posted up in the engine house or hoist house and also at the top of the shaft and at the entrance of each level.

The following code of mine signals shall be used at every mine:—

## Code of Mine Signals.

1 bell ..... Stop immediately—if in motion.

1 bell ..... Hoist.

2 bells ..... Lower.

3 bells ..... Men about to ascend or descend.

The 3-bell signal must be given before men enter cage, which must not be moved until the "Hoist" or "Lower" signal is given and then slowly.

4 bells ..... Blasting signal. Engineer must answer by raising bucket, skip or cage a few feet and letting it back slowly, then one bell, hoist men away from blast.

9 bells ..... Danger signal in case of fire or other danger. Then ring number of station where danger exists.

Special signals in addition to the above may be used at any mine, if they have been approved by the Inspector.

46. No person but the cage tender shall ring the signal bell, and the signal to move the cage, skip or bucket shall be given only when the same is at the level from which the signal is to be given.

## Protection from Machinery.

47. Every fly-wheel, geared-wheel, bull-wheel, pulley or belt, and every opening through which any wheel or belt operates, shall be enclosed with a substantial railing or casing.

48. Every key, bolt, set-screw, and every part of any wheel or other revolving machinery which projects unevenly from the surface shall be covered.

49. Every runway, stair and staging used for oiling or other purposes more than five feet from the floor shall be provided with hand-railing.

50. Every entrance to any elevator, hatchway or well-hole shall be provided with a suitable trap-door, guard-rail, or automatically closing gate.

51. Persons engaged in dangerous proximity to moving machinery shall not wear or be allowed to wear loose outer clothing.

52. Every frog in a track, either above or below ground, on which cars are moved by mechanical power shall have a guard block of wood or iron.

53. Every locomotive engine, trolley or motor car used for hauling material, either above or below ground shall be equipped with a gong, bell or whistle, which shall be sounded when starting and at such other times as warning of danger may be required.

54. (1) Every steam boiler used for generating steam in or about a mine shall, whether separate or one of a range—

(a) Have attached to it a proper safety-valve, and also a proper steam-gauge and water-gauge, to show respectively the pressure of steam and the height of water in each boiler;

(b) Be inspected by a competent person, not an employee of the owner or agent, at least once in every twelve months; and a certified copy of the report of the inspector shall be forwarded to the inspector within seven days;

(c) Be cleaned out and examined internally, as far as the construction of the boiler will permit, by the person in charge of it, at least once in every three months.

(2) Every such boiler, safety-valve, steam-gauge and water-gauge shall be maintained in proper working condition.

## Dressing Rooms.

55. If more than ten persons to each shift are ordinarily employed in the mine below ground, sufficient accommodation, including supplies of pure cold and warm water for washing, shall be provided above ground near the principal entrance of the mine, and not in the engine room or boiler room, for enabling the persons employed in the mine to conveniently dry and change their clothes.

### Aid to Injured.

56. At every mine where six or more men are employed in underground work, a properly constructed stretcher shall be kept for the purpose of conveying to his place of abode any person who may be injured while in the discharge of his duties at the mine.

57. A supply of articles suitable for first aid shall be kept accessible at every mine for the treatment of anyone injured, including the following:—antiseptic gauze, carbolated vaseline, sponges, soap, carbolic acid, tablets of bichloride of mercury, linseed oil, bandages, towels and a wash basin.

58. At every mine or works where poisonous or dangerous compounds, solutions or gases are used or produced there shall be kept in a conspicuous place as near the same as practicable, a sufficient supply of satisfactory antidotes and washes for treating injuries received from such compounds, solutions or gases. Such antidotes and washes shall be properly labelled, and explicit directions for their use affixed to the boxes containing them.

### Prevention of Dust.

59. In every mill or plant where, by reason of dry crushing or otherwise, there is in the air of the building dust in quantity to be injurious to health, suitable apparatus shall be installed for its removal.

60. Every dusty place where work is being carried on in a mine shall be adequately supplied at all times with clean water under pressure or other approved appliances for laying the dust caused by drilling or blasting operations.

61. The times for blasting shall be so fixed that the workmen shall be exposed as little as practicable to dust and smoke.

62. Workmen employed at metallurgical works, shall be supplied with suitable shields and appliances to protect them as far as possible from being burned with molten material.

### Use of Electricity.

#### Definitions.

63. The word "pressure" in this and the following rules down to and including rule 95, shall mean the difference of electrical potential between any two electrical conductors.

Where the conditions of the system are such that the pressure between any two conductors, or between any conductor and the earth, at the terminals where the electrical energy is being used does not normally exceed 250 volts, this shall be deemed a low pressure system.

Where the conditions of the system are such that the pressure between any two conductors, or between any conductor and the earth, at the terminals where the electrical energy is being used normally exceeds 250 volts, but does not normally exceed 600 volts, this shall be deemed a medium pressure system.

Where the conditions of the system are such that the pressure between any two conductors, or between any conductor and the earth, at the terminals where the electrical energy is being used normally exceeds 600 volts, this shall be deemed a high pressure system.

#### Construction of Apparatus.

64. All electrical apparatus and conductors shall be sufficient in size and power for the work they may be called upon to do, and, so far as is reasonably practicable, efficiently covered or safeguarded and so installed, worked and maintained as to reduce the danger to person or property through accidental shock or fire to the minimum, and shall be of such construction, and so worked, that the rise in temperature, caused by ordinary working will not injure the insulating materials.

65. A transformer for transforming a high pressure to a medium or low pressure shall be placed in a separate fireproof compartment, used only for that purpose.

66. A higher pressure than a medium pressure shall not be used for portable motors nor for any other purpose underground.

67. Electric energy shall not be used directly to thaw explosives.

68. No motor outside a machine or motor room shall be operated at a pressure exceeding the limits of medium pressure.

69. Main and distribution switch and fuse boards must be made of incombustible insulating material, such as marble or slate, free from metallic veins, and be fixed in as dry a situation as practicable.

70. All electric switches, controllers, motor-starting devices or other apparatus essential to the operation of electric motors or other equipment shall be constructed in such a way that they may be safely used for the purposes for which they are intended, and shall be maintained in such condition.

### Insulation and Grounding.

71. Where a medium-pressure supply is used for power purposes or for arc lamps in series, the wires or conductors forming the connections to the motors, transformers, arc lamps, or otherwise in connection with the supply, shall be, as far as is reasonably practicable, completely enclosed in strong armoring or metal casing efficiently grounded to earth, or they shall be fixed at such a distance apart, or in such a manner that danger from fire or shock may be reduced to a minimum. This rule shall not apply to trailing cables.

72. No higher pressure than a medium pressure supply shall be used other than for transmission or for motors, and the wires or conductors to the motors or transformers or otherwise in connection with the supply shall be completely enclosed in a strong armoring or metal casing efficiently connected with earth, or they shall be fixed at such a distance apart or in such a manner that danger to person or property from fire or shock shall be reduced to a minimum.

73. All metallic coverings, armoring of cables, and the frames and bed-plates of generators, transformers and motors other than portable motors shall, as far as is reasonably practicable, be efficiently grounded.

74. Overhead bare wires on the surface must be efficiently supported upon insulators and be clear of any traffic, and be provided with efficient lightning arresters.

75. All cables used in shafts for the transmission of electrical energy must be highly insulated and substantially fixed. Shaft cables not capable of sustaining their own weight shall be properly supported at intervals according to the weight of the cable.

76. Low pressure wires for lighting or signal circuits shall either be conveyed in metallic conduits or casings, or suspended from or securely tied to porcelain or glass insulators, so that they do not touch any timbering or metal. On no account shall staples be used. If metallic conduits are used they must be grounded, and if not electrically continuous every section must be grounded. If separate uncased wires are used they shall be kept at least three inches apart and not brought together except at lamps or fittings.

77. All proper precautions must be taken to prevent electric, signal or telephone wires coming into contact with other electric conductors, whether insulated or not.

### Switches, Fuses and Cut-outs.

78. Fuses and automatic cut-outs shall be so constructed as effectually to interrupt the current when a short circuit occurs, or when the current through them exceeds the normal working current by 100 per cent. Fuses shall be stamped or marked or shall have a label attached indicating the current with which they are intended to be used, or where fuse wire is used each coil in use shall be so stamped or labelled. Fuses shall only be adjusted or replaced by an authorized person.

79. All live parts of switches, fuses and cut-outs, not in machine rooms, or in compartments specially arranged for the purpose, must be covered. The covers must be of incombustible material and must be either non-conducting or of rigid metal, and as far as practicable clear of all internal mechanism.

### Trolleys and Portable Apparatus.

80. In underground roads the trolley wires shall be placed as close to the side as practicable, and in a straight line, and securely supported at frequent intervals. In all roads where it is necessary for men to travel on foot, all wires, except signal wires, must be placed on the same side of the roadway and efficiently protected. Signal wires should, where practicable, be placed on the opposite side of the roadway from other wires.

81. At all landings, turn-outs, partings or crossings, or other places where it is necessary for men to pass near the wires, a suitable protection shall be placed around the wires, or the pressure must be cut off when such places are used for travelling on foot. Sufficient illumination to make the wires plainly visible shall be provided at all points where men are liable to come in contact with power wires.

82. Every branch trolley shall be fitted with an automatic trolley switch or section insulator and line switch, or some other device that will allow the pressure to be cut off from such trolley when not actually in use. Danger signals, consisting of no fewer than two red lights in parallel, and as many in series as may be necessary, shall be connected at suitable intervals to all branch trolley circuits to indicate when the current is on. A notice shall be posted at the entrance to all roadways carrying exposed power wires, warning persons against the dangers of carelessly carrying metal tools such as drills, picks, etc., which may come in contact with the wires.

83. On roads above ground the trolley wires shall be at least 8 feet above the rail level and efficiently guarded.



84. A trailing cable shall be especially flexible, heavily insulated and protected with extra stout braiding or other equally effective covering, and in the event of its breaking down or being damaged, or of its inflicting a shock upon any person, it shall at once be put out of service, and shall not be used again until it has been repaired and tested by the mine electrician.

85. The person in charge of an electric drilling machine shall not leave the machine while it is working, and shall see that the pressure is cut off from the trailing cables before leaving the working place.

#### Supervision and Working of Apparatus.

86. A competent person shall be in charge of the electrical apparatus or machinery when it is in use at the mine, and at such time as the amount of electrical energy delivered down the mine exceeds 150 kilowatts, a competent person shall also be in charge below ground. Every person operating or having charge of any electric apparatus shall have been instructed in his duty and be competent for the work that he is set to do.

87. No person shall wilfully damage, interfere with or without proper authority remove or render useless any electric line, or any machine, apparatus or part thereof used in connection with the supply or use of electricity.

88. No person, other than a person authorized by the owner, manager or superintendent, shall enter a machine transformer or motor room or interfere with the working of any machine, transformer, motor or apparatus, connected therewith, and when the authorized person is not present the door of such room shall be kept securely locked.

89. The machines, apparatus and lines shall be so marked as to clearly indicate that they are high pressure.

90. A sufficient number of fire buckets filled with clean, dry sand shall be kept in electrical machine rooms ready for immediate use in extinguishing fires.

91. No repair or cleaning of live parts of any electrical apparatus or work in dangerous proximity thereto, except mere wiping or oiling, shall be done when the current is on.

92. Gloves, mats or shoes of India rubber or other insulating material shall be supplied and used where the live parts of switches, machines or other apparatus working at a pressure exceeding the limits of low pressure have to be handled for the purpose of adjustment.

#### Shot Firing.

93. (a) Electricity from lighting or power cables shall not be used for firing shots, except when a special firing plug, button or switch is provided, which plug, button or switch shall be placed in a fixed locked box, and shall only be accessible to the authorized shot firer.

(b) The firing cables or wires shall not be connected to this box until immediately before they are required for the firing of shots, and shall be disconnected immediately after the shots are fired.

94. When shot-firing cables or wires are used in the vicinity of power or lighting cables, sufficient precautions shall be taken to prevent the shot-firing cables or wires coming in contact with the lighting or power cables.

#### Exemptions.

95. Notwithstanding anything contained in these rules, any electrical plant or apparatus installed or in use, on or before the twenty-fourth day of March, 1911, may be continued in use, unless the Inspector shall otherwise direct.

#### Damage to Property.

96. No person shall wilfully damage, or without proper authority remove or render useless, any fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam-gauge, water-gauge, safety-valve, or other appliance or thing provided in any mine in compliance with this Act.

#### General.

97. No person under the influence of or carrying intoxicating liquor shall enter any mine or be in the proximity of any working place on the surface or near any machinery in motion.

98. There shall always be enforced and observed by the owner and the agent of a mine, and by every manager, superintendent, contractor, captain, foreman, workman and other person engaged in or about the mine, such care and precaution for the avoidance of accident or injury to any person in or about the mine as the particular circumstances of the case require; and the machinery, plant, appliances and equipment and the manner of carrying on operations shall always, and according to the particular circumstances of the case, conform to the strictest considerations of safety.

### Posting up Rules.

99. Instructions and rules required by this Act to be posted in or about a mine shall be written or printed in the English language and also in such other language as may be necessary to inform any considerable number of workmen employed at the mine, and the owner or agent of the mine shall maintain such instructions and rules, duly posted, and the removal or destruction of them shall be an offence against this Act.

### Payment of Wages.

165. (1) No wages shall be paid to any person employed in or about any mine to which this part applies at or within any tavern, shop or place where spirits, wine, beer or other spirituous or fermented liquors are sold or kept for sale, or within any office, garden, or place belonging or contiguous thereto or occupied therewith.

(2) Every person who contravenes or permits any person to contravene this section shall be guilty of an offence against this Act, and in the event of any such contravention by any person whomsoever the owner and agent of the mine in respect of which the wages were paid shall also each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means to prevent such contravention by publishing and to the best of his power enforcing the provisions of this section.

168. (1) Where, in or about any mine, whether above or below ground, any accident occurs which causes:

(a) Loss of life to any person employed in or about the mine, or

(b) Fracture or dislocation of any of the bones of the body, or any other serious personal injury, to any person employed in or about the mine.

The owner, agent, manager or superintendent of the mine shall within twenty-four hours next after the accident, send notice in writing of the accident, and of the loss of life or personal injury occasioned thereby, to the Deputy Minister, in such form and accompanied by such particulars as may be prescribed by him.

"Serious personal injury" shall mean such an injury as in the opinion of the attending physician may result in the injured person being incapacitated for work for at least seven days.

(2) Where in or about any mine,

(a) Any case of overwinding a skip or cage;

(b) Any breakage of a rope or cable used for hoisting;

(c) Any inrush of water from old workings or otherwise;

(d) Any outbreak of fire below ground; or

(e) Any premature or unexpected explosion occurs,

Whether or not loss of life or personal injury is caused thereby, the owner, agent, manager, or superintendent shall, within twenty-four hours next after the occurrence, send notice in writing to the inspector, and shall furnish such particulars in respect thereof as may assist the inspector in making inquiry into the circumstances.

169. Where mining operations have been commenced upon any mine, claim, location or works in Ontario, or where such operations have been discontinued, or where such operations have been recommenced after an abandonment or discontinuance for a period exceeding two months, or where any change is made in the name of a mine or in the name of the owner or agent thereof, or in the officers of any incorporated company which is the owner thereof, the owner or agent of such mine, claim, location or works shall give notice thereof to the Deputy Minister within two months after such abandonment, discontinuance, recommencement or change, and if such notice is not given the owner or agent shall be guilty of an offence against this Act.

### Statistical Returns.

170. (1) For the purpose of their tabulation under the instructions of the Minister the owner or agent of every mine, quarry or other works to which this Act applies shall on or before the 15th day of January in every year send to the Bureau of Mines a correct return for the year which ended on the 31st day of December next preceding, showing the number of persons ordinarily employed below and above ground respectively, and distinguishing the different classes and ages of the persons so employed whose hours of labour are regulated by this Act, the average rate of wages of each class and the total amount of wages paid during the year, the quantity in standard weight of the mineral dressed, and of the undressed mineral which has been sold, treated or used during such year, and the value or estimated value thereof, and such other particulars as the Minister may by regulation prescribe.

(2) The owner or agent of every metalliferous mine shall, if required, make a similar return for the month or quarter at the end of each month or quarter of the calendar year.

(3) Every owner or agent of a mine, quarry or other works who fails to comply with this section, or makes any return which is to his knowledge false in any particular, shall be guilty of an offence against this Act.

## Plans of Working.

171. (1) On any examination or inspection of a mine the owner shall, if required, produce to the Inspector, or to any other person authorized by the Minister or Deputy Minister an accurate plan of the workings of the same.

(2) The plan shall show the workings of the mine up to within six months of the time of the examination or inspection, and the owner shall, if required by the Inspector or other authorized person, cause to be marked on the plan the progress of the workings of the mine up to the time of the examination or inspection, and shall also permit him to take a copy or tracing thereof.

(3) An accurate plan of every working mine in which levels, crosscuts or other openings have been driven from any shaft, adit or tunnel, and of every mine consisting of a tunnel or shaft fifty feet or more in length shall be made and a certified copy filed in the Bureau of Mines on or before the 31st day of January in each year, showing the workings of the mine up to and including the 31st day of December next preceding, and whenever work has been discontinued or abandoned for a period of one month such plan shall be filed within two months from the date of cessation of work.

(4) Failure on the part of the owner or agent of the mine to comply with any provision of this section shall be an offence against this Act.

(5) Every such plan shall be treated as confidential information for the use of the officers of the Bureau of Mines, and shall not be exhibited nor shall any information contained therein be imparted to any person except with the written permission of the owner or agent of the mine.

## Powers and Duties of Inspector.

172. (1) It shall be the duty of every Inspector, and he shall have power,

(a) To make such examination and inquiry as he may deem necessary to ascertain whether the provisions of this Act are complied with;

(b) To enter, inspect and examine any mine and every portion thereof at all reasonable times by day or night, but so as not to unnecessarily impede or obstruct the working of the mine;

(c) To examine into and make inquiry respecting the state and condition of any mine, or any portion thereof, and the ventilation of the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine, or any mine contiguous thereto, and to give notice to the owner or agent in writing of any particulars in which he considers such mine or any portion thereof, or any matter, thing or practice to be dangerous or defective or contrary to the provisions of this Act, and to require the same to be remedied within the time named in such notice;

(d) To order the immediate cessation of work in and the departure of all persons from any mine or portion thereof which he considers unsafe, or to allow persons to continue to work therein on such precautions being taken as he deems necessary;

(e) To exercise such other powers as may be necessary for ensuring the health and safety of miners and all other persons employed in or about mines, smelters, metallurgical and mining works.

(2) It shall be the duty of every Inspector to make an annual report of his proceedings during the preceding year to the Deputy Minister.

(3) The annual report shall be laid before the Assembly.

173. (1) The Minister may direct an Inspector to make a special report with respect to any accident in or about any mine which has caused loss of life or personal injury to any person.

(2) In conducting the inquiry the Inspector shall have power to compel the attendance of witnesses and the production of books, documents and things, and to take evidence upon oath.

174. Non-compliance with any rule contained in section 164 or with any other provision of Part IX shall be an offence against Part IX of this Act, of which the owner and the agent of the mine and every manager, superintendent, captain, foreman, workman and other person engaged in or about the mine shall each be guilty.

175. Where work in or about a mine is let to a contractor or sub-contractor, he shall comply and enforce compliance with all the rules and provisions of Part IX and shall in any case of non-compliance therewith be guilty of an offence and punishable in like manner as if he were owner or agent.

## PART X—OFFENCES, PENALTIES AND PROSECUTIONS.

176. Every person who

(b) Wilfully defaces, alters, removes or disturbs any post, stake, picket, boundary line, figure, writing or other mark lawfully placed, standing or made under this Act, or

(c) Wilfully pulls down, injures or defaces any rules, or notice posted up by the owner or agent of a mine, or

(d) Wilfully obstructs the Commissioner or any officer appointed under this Act in the execution of his duty, or

(e) Being the owner or agent of a mine refuses or neglects to furnish to the Commissioner or to any person appointed by him or to any officer appointed under this Act the means necessary for making an entry, inspection, examination or inquiry in relation to any mine, under the provisions of this Act other than Part IX, or

(h) Wilfully contravenes any provisions of this Act or any rule or regulation made thereunder for the contravention of which no other penalty is provided, or

(i) Attempts to do any of the acts mentioned in the foregoing clauses, shall be guilty of an offence against this Act and shall incur a penalty not exceeding \$20 for every day upon which such offence occurs or continues.

177. Every person who wilfully neglects or refuses to obey any order or award of the Commissioner except for the payment of money, shall, in addition to any other liability, incur a penalty not exceeding \$250, and upon conviction thereof shall be liable to imprisonment for a period not exceeding six months unless such penalty and costs are sooner paid.

179. (1) Every owner, agent, manager, superintendent or captain, who is guilty of an offence against Part IX shall incur a penalty of not less than \$100 nor more than \$1,000.

(2) Every person other than an owner, agent, manager, superintendent or captain engaged or employed in or about a mine who is guilty of an offence against Part IX shall incur a penalty of not less than \$10 nor more than \$100.

(3) Where the Deputy Minister or an inspector has given written notice to an owner or agent or any person engaged or employed in or about a mine that an offence has been committed against Part IX., such owner or agent or other person shall incur a further penalty not exceeding \$100 for every day upon which the offence continues after such notice.

(4) Every such owner or agent shall upon conviction be liable to imprisonment for a period not exceeding three months unless the penalty and costs are sooner paid, and every person other than an owner or agent so employed shall upon conviction be liable to imprisonment for a period not exceeding one month unless the penalty and costs are sooner paid.

(5) Where the offence is one which might have endangered the safety of those employed in or about the mine or caused serious personal injury or dangerous accident and was committed wilfully by the personal act, default or negligence of the accused, every person who is guilty of an offence against Part IX. shall, in addition to or in substitution for any pecuniary penalty that may be imposed, be liable to imprisonment with or without hard labour for a period not exceeding three months.

180. (1) No prosecution shall be instituted for an offence against Part IX. or any regulation made in pursuance thereof, except

(a) By an Inspector, or

(b) By the direction of the County or District Crown Attorney, or

(c) By the leave in writing of the Attorney General;

or for an offence against any other of the provisions of this Act or of any rule or regulation made in pursuance thereof, except

(a) By or by leave of the Commissioner or a Recorder.

(b) By leave of the Attorney General, or

(c) By direction of the County or District Crown Attorney;

No person not being the actual offender shall be liable in respect of such offence if he proves that he did not participate in the contravention of the rule or provision for a breach of which he is charged and that he was not to blame for such breach and that according to his position and authority he took all reasonable means in his power to prevent such breach and to secure compliance with the rules and provisions of Part IX.

(2) The burden of showing that the observance or carrying out of any rule contained in section 164 was not deemed by the inspector to be reasonably practicable shall be upon the accused, but it may be proved by a certificate from the inspector or by his evidence given at the hearing.

181. (1) Except as to offences against section 12, every prosecution for an offence against or for the recovery of a penalty imposed by or under the authority of this Act shall take place before a police magistrate or a justice of the peace having jurisdiction in the county or district in which the offence is committed, or before the commissioner or a recorder, and save as herein otherwise provided the provisions of "The Ontario Summary Convictions Act" shall apply to every such prosecution.

(2) The prosecution shall be commenced within six months after the commission of the offence.

#### PART XI.—GENERAL PROVISIONS.

##### Lien for Wages.

182. The provisions of "The Mechanics' and Wage Earners' Lien Act" shall apply to mines, mining claims, mining lands or works connected therewith except that in the

case of unpatented land and mining rights the registration provided for by the said Act shall be in the office of the recorder.

183. (1) Every person who performs labour for wages in connection with any mine, mining claim, mining lands or works connected therewith shall have a lien thereon and upon any other property of the owner therein or thereon for such wages, not exceeding the wages for thirty days, or a sum equal to his wages for thirty days, and such lien may be enforced in the manner provided by section 182.

(2) Where satisfied that any claim for lien recorded under or by reason of this or the next preceding section is made or recorded improperly or for the purpose of embarrassment the Commissioner may cancel and remove the same.

[Section 184, forbidding the issuing of liquor licenses within six miles of certain mines, became inoperative on the repeal of the Liquor License Act by the Ontario Temperance Act, 1916, chapter 5.]

#### Preservation of Peace.

185. The Lieutenant-Governor in Council may declare by proclamation that The Public Works Peace Preservation Act shall be in force in any Mining Division or in any defined locality therein, and upon and after the date named in any such proclamation section 1 and sections 3 to 11 inclusive of that Act, shall take effect within the Mining Division or locality designated in the proclamation, and the provisions of the said Act shall apply to all persons employed in any mine or in mining within the limits of such Mining Division or locality in the same manner and to the same extent as nearly as may be as if the persons so employed had been specially mentioned and referred to in such Act.

#### Regulations by Order in Council.

188. (1) The Lieutenant-Governor in Council may make such rules and regulations as he may deem necessary for carrying out the provisions of this Act or to meet cases which may arise for which no provision is made in the Act, or when he deems the provision made to be ambiguous or doubtful, and may impose penalties not exceeding \$200 or not exceeding three months' imprisonment for the violation of any such rule or regulation.

(3) Rules and regulations made under the provisions of this section shall have force and effect only after the same shall have been published in the Ontario Gazette, and if made when the Assembly is sitting shall be laid before the Assembly during the then Session, and if made at any other time shall be laid before the Assembly within the first fifteen days of the Session next after the date thereof, and in case the Assembly at such Session, or if the Session does not continue for three weeks after such rules or regulations are laid before the Assembly, at the ensuing Session, disapproves by resolution of such rule or regulation either wholly or in part, the rule or regulation, so far as the same is disapproved, shall have no effect from the time such resolution is passed.

(Forms omitted.)

#### Peace Preservation on Public Works.

Chapter 36.—1. This Act may be cited as The Public Works Peace Preservation Act.

2. In this Act "Weapon" shall include any gun or other firearm, or air-gun, or any part thereof, or any sword, sword blade, bayonet, pike, pike-head, spear, spear-head, jirk, dagger, knife, or other instrument intended for cutting or stabbing, or any metal knuckles, or other deadly or dangerous weapon, and any instrument or thing intended to be used as a weapon, and all ammunition which may be used with or for any weapon.

3. (1) The Lieutenant-Governor in Council may by proclamation declare that on and after a day to be named therein, this Act shall be in force in any place in Ontario in which or in the vicinity of which any public Dominion or Provincial work, or a canal, railway or other work undertaken or carried on by an incorporated company is in process of construction, and the same shall take effect accordingly.

(2) The Lieutenant-Governor in Council may, in like manner, declare this Act to be no longer in force in such place; but this shall not prevent the Lieutenant-Governor in Council from again declaring the same to be in force in such place.

(3) No such proclamation shall have effect within the limits of a city.

4. (1) Upon and after the day so named in the proclamation, no person employed in or upon any such work within the limits specified in the proclamation, shall keep or have in his possession or under his care or control, within such limits, any weapon, under a penalty of not less than \$2 nor more than \$10 for every such weapon found in his possession, unless such person is a justice of the peace or a public officer, a soldier, sailor or volunteer in His Majesty's service, on duty, or a constable or other peace officer, or has a certificate of exemption from the operation of this section as hereinafter provided, or has at the time reasonable cause to fear an assault or other injury to his person, family or property.

(2) If sufficient cause is shown upon oath to the satisfaction of any justice of the peace, he may grant to an applicant therefor not under the age of sixteen years, and as to whose discretion and good character he is satisfied by evidence upon oath, a certificate of exemption from the operation of this section for such period not exceeding twelve months, as he deems fit.

(3) Such certificate shall be *prima facie* evidence of its contents and of the signature and official character of the person by whom it purports to be granted.

5. Before the day so named in the proclamation, every person employed in or upon any such work, who is not exempted under the next preceding section, shall bring and deliver up to a justice of the peace or to a commissioner appointed by the Lieutenant-Governor for the purposes of this Act every weapon in his possession, and shall be entitled to obtain from him a receipt for the same.

6. When this Act ceases to be in force within the place where any weapon has been delivered up and detained in pursuance thereof, or when the owner or person lawfully entitled to such weapon satisfies the justice or commissioner that he is about to remove immediately from the limits within which this Act is at the time in force, the justice or commissioner may deliver up to the owner or person authorized to receive the same, such weapon, on production of the receipt so given for it.

7. Every weapon found in the possession of a person so employed after the day so named in the proclamation, and within the limits set forth in the proclamation, may be seized by any justice, commissioner, constable or other peace officer, and thereupon shall be forfeited to the use of His Majesty.

8. If a person, for the purpose of defeating this Act, receives or conceals, or aids in receiving or concealing, or procures to be received or concealed, within the limits within which this Act is at the time in force, any weapon belonging to or in the custody of a person employed on any such work, he shall incur a penalty of not less than \$40 nor more than \$100.

9. (1) A justice of the peace or commissioner having authority within the place where this Act is at the time in force, upon the oath of a credible witness that he believes that a weapon is in the possession of any person or in any house or place, contrary to the provisions of this Act, may issue his warrant to a constable or peace officer, to search for and seize the same, and he or any person in his aid may search for and seize the same in possession of any person, or in such house or place.

(2) If admission to such house or place cannot otherwise be obtained after demand, the constable or peace officer, and person in his aid, may enter the same by force, by day or by night, and seize such weapon; and unless the person within whose possession or in whose house or place the same is found, within four days next after the seizure, proves to the satisfaction of the justice or commissioner that the weapon so seized was not in his possession or in his house or place contrary to the provisions of this Act, such weapon shall be forfeited for the use of His Majesty.

10. Every justice or commissioner shall make to the Provincial Secretary a monthly return of all weapons delivered to or seized by him, and detained under this Act.

11. Weapons forfeited under this Act shall be sold under the direction of the justice or commissioner by whom or by whose authority the same were seized, and the proceeds of the sale, after deducting necessary expenses, shall be received by the justice or commissioner and paid over by him to the Treasurer of Ontario.

12. The penalties imposed by this Act shall be recoverable under "The Ontario Summary Convictions Act."

#### Mounted Police Force.

13. For the better carrying this Act into effect, the Lieutenant-Governor in Council may cause a body of men not exceeding one hundred, inclusive of officers, and to be called "The Ontario Mounted Police Force," to be raised, mounted, armed and equipped, and to be placed under the command of such officers as the Lieutenant-Governor in Council deems necessary, and may cause such police force, or any part thereof to be employed in any place in which this Act is in force, under such regulations as the Lieutenant-Governor in Council shall from time to time prescribe.

14. The Lieutenant-Governor in Council may appoint the chief officers and such of the subordinate officers of the police force, and such other persons as he deems necessary, to be justices of the peace for the purposes of this Act for any place in which this Act is in force; and such officers and persons may act as justices of the peace, although they may not have the qualifications in property required of others or may not reside in the county or district.

15. The men in the police force shall be constables and peace officers for the purposes of this Act, for the county or district in which they are employed.

#### Expenses.

16. The expenses of carrying this Act into effect upon or near a provincial public work shall be paid through the Minister of Public Works out of the money appropriated



for the work on which the expenses are incurred, and shall be charged as part of the cost of the work; but the sum expended in any one year shall not exceed \$40,000.

17. The expenses attending the employment of such police force in any place in or in the vicinity whereof a railway, canal or work, undertaken and carried on by an incorporated company is in course of construction, shall in the first instance be paid out of the Consolidated Revenue Fund, and shall, on demand, be repaid to the treasurer of Ontario by the Incorporated Company, or, if not so repaid, may be recovered by the company as a debt due to the crown; and, when recovered, shall form part of the Consolidated Revenue Fund.

### Bureau of Labour.

Chapter 37.—1. This Act may be cited as The Bureau of Labour Act.

2. There shall be attached to the Department of Public Works a bureau, to be styled "The Bureau of Labour."

3. The Lieutenant-Governor in Council may appoint a secretary of the said bureau, and may also appoint such other officers as may be deemed necessary for the proper conduct of the bureau.

4. It shall be the duty of the bureau to collect, assort, systematise and publish information and statistics relating to employment, wages and hours of labour, co-operation, strikes, lockouts, or other labour difficulties, trades unions, labour organizations, the relations between labour and capital, and other subjects of interest to workmen throughout Ontario, with such information relating to the commercial, industrial and sanitary condition of workmen, and the permanent prosperity of the industries of Ontario, as the bureau may be able to gather.

### Protection of Employees—Inspection and Regulation of Electrical Works.

Chapter 39 with amendments.—37. (1) The Hydro-Electric Power Commission may, with the approval of the Lieutenant-Governor in Council, make regulations as to design, construction, installation, protection, operation, maintenance and inspection of works plant, machinery, apparatus, appliances, devices, material and equipment for the generation, transmission, distribution, connection and use of electrical power or energy by any municipal corporation or commission and by any railway, street railway, electric light, power or transmission company, or by any other company or individual generating, transmitting, distributing or using electric power or energy, or whose undertaking works or premises are electrically connected with any plant for the generation, transmission or distribution of electric power or energy, and the Commission may impose penalties for the breach of any such regulations.

(2) The Commission may, at any time, order such work to be done in the installation, removal, alteration or protection of any of the works mentioned in subsection 1, as the commission may deem necessary for the safety of the public, or of workmen, or for the protection of the property damaged by fire or otherwise, and pending the performance of such work, or in case of noncompliance with the regulations or with any order of the Commission, may order the supply of electrical power or energy to be cut off from such works.

(3) The Commission may appoint inspectors for the purpose of seeing that the regulations and orders of the Commission, made under the authority of this section, or any other provision of this Act, are carried out and may collect the fees to be paid by any municipal corporation or commission, or by any company, firm, or individual under the regulations or by order of the Commission, and may provide for the payment of the remuneration, travelling and other expenses of the inspector out of the fines and fees so collected or out of the funds appropriated for carrying on the work of the Commission.

(4) Every inspector so appointed may, during any reasonable hour, enter upon, pass over or through any land, buildings or premises for the purpose of carrying out the regulations and orders of the Commission, and perform the duties assigned to him; and every municipal corporation or commission, company, firm, or individual, molesting, hindering, disturbing or interfering with an inspector in the performance of his duty, shall be guilty of an offence, and shall incur the penalty provided by subsection 7.

(5) Every municipal corporation or commission, and every company, firm, or individual, upon receiving notice in writing by the Commission to remedy any defect or to make any alteration, or carry out any work, or comply with such notice within the time thereby prescribed, and in default, shall incur the penalty provided by subsection 9. 1917, c. 20, s. 12.

(6) Every municipal corporation or commission, and every company, firm or individual, supplying electrical power or energy for use in any electric works, plant, machinery, apparatus, appliance or equipment before the same have been inspected



and such supply authorized by the certificate of the Commission, and after notice from the Commission of the unauthorized supply or use, shall incur a penalty of not less than \$300 nor more than \$500.

(7) Every municipal corporation or commission, and every company, firm and individual, refusing or neglecting to disconnect or discontinue the supply of electricity to any electric works, plant, machinery, apparatus, appliance or equipment, upon due notice in writing from the commissioner so to do, shall incur a penalty of not less than \$300 nor more than \$500.

(8) Nothing in this Act shall affect the liability of any municipal corporation or commission, or of any company, firm or individual, for damages caused to any person or property by reason of any defect in any electric works, plant, machinery, apparatus, appliance, device, material, or equipment, or in the installation or protection thereof, nor shall the Commission or any inspector incur any liability by reason of any inspection or the issue of any certificate or on account of any loss occasioned by the cutting off of the supply of electrical power or energy in accordance with the orders of the Commission.

(9) Every municipal corporation or commission, and every company, firm or individual, disobeying the provisions of this Act, or of the regulations, or any order of the Commission, shall incur a penalty of not less than \$10 nor more than \$50, and in the event of continuing the offence, of not less than \$10 nor more than \$50 for every day during which such offence continues.

(10) The penalties imposed by or under the authority of this section shall be recoverable under "The Ontario Summary Convictions Act" and shall be paid over to the Commission. 1916, c. 19, s. 10.

40. A municipal corporation or municipal commission and any company or individual neglecting or refusing to obey and carry out any order or direction of the Commission or of a member thereof made under section 36, or of the Commission made under sections 37, 38 or 39, in addition to any other liability, shall forfeit to His Majesty for the use of Ontario the sum of \$100 for every day during which such neglect or refusal shall continue.

#### **Earnings of Minors—Suits for Wages.**

Chapter 63.—66. A minor may sue for any sum not exceeding \$100 due to him for wages, or for work or services, as if he were of full age

#### **Earnings of Woodmen—Suits for Wages.**

Chapter 63.—72. (1) An action may be entered and tried

(a) In the court for the division in which the cause of action arose or in which the defendant, or any one of several defendants, resides or carries on business at the time the action is brought; or

(b) In the court the place of sitting whereof is the nearest to the residence of the defendant

Provided, that any action for wages of a woodman may be entered and tried in the court holden for the division in which the contract of hiring was made, notwithstanding any stipulation in the contract of employment or otherwise. In this section "woodman" shall mean a person performing labour or services in connection with any logs or timber, and shall include cooks, blacksmiths, artisans and all others usually employed in connection with such labour or services.

(2) In the cases provided for by clause (b) of subsection 1 and by subsection 2 of section 80, the summons may be served by a bailiff of the court out of which it issues, and upon judgment being recovered execution against the goods and chattels of the debtor, and all other process and proceedings to enforce payment of the judgment, may be issued to the bailiff of such court, and be executed and enforced by him in the county in which the debtor resides, as well as in the county in which the judgment was recovered.

#### **Mechanics' and Wage Earners' Liens.**

Chapter 140 with amendment.—1. This Act may be cited as The Mechanics and Wage-Earners Lien Act.

2. In this Act,

(a) "Contractor" shall mean a person contracting with or employed directly by the owner or his agent for the doing of any work or service or placing or furnishing materials for any of the purposes mentioned in this Act;

(b) "Material" or "materials" shall include every kind of moveable property;

(c) "Owner" shall extend to any person, body corporate or politic, including a municipal corporation and a railway company, having any estate or interest in the

land upon or in respect of which the work or service is done, or materials are placed or furnished, at whose request and

- (i) upon whose credit or
- (ii) on whose behalf or
- (iii) with whose privity and consent or
- (iv) for whose direct benefit

work or service is performed or materials are placed or furnished, and all persons claiming under him or them whose rights are acquired after the work or service in respect of which the lien is claimed is commenced or the materials furnished have been commenced to be furnished;

(d) "Registrar" shall include Master of Titles and Local Master of Titles;

(e) "Registry Office" shall include Land Titles Office;

(f) "Sub-contractor" shall mean a person not contracting with or employed directly by the owner or his agent for the purposes aforesaid, but contracting with or employed by a contractor, or under him by another sub-contractor.

(g) "Wages" shall mean money earned by a mechanic or labourer for work done, whether by the day or other time or as piece work.

3. Nothing in this Act shall extend to any public street or highway, or to any work or improvement done or caused to be done by a municipal corporation thereon.

4. (1) Every agreement, verbal or written, express or implied, on the part of any workman, servant, labourer, mechanic or other person employed in any kind of manual labour intended to be dealt with in this Act, that this Act shall not apply, or that the remedies provided by it shall not be available for the benefit of such person, shall be null and void.

(2) This section shall not apply to a manager, officer or foreman, or to any other person whose wages are more than \$5 a day.

5. No agreement shall deprive any person otherwise entitled to a lien under this Act who is not a party to the agreement, of the benefit of the lien, but it shall attach, notwithstanding such agreement.

6. Unless he signs an express agreement to the contrary, and in that case subject to the provisions of section 4, any person who performs any work or service upon or in respect of, or places or furnishes any materials to be used in the making, constructing, erecting, fitting, altering, improving or repairing of any erection, building, railway, land, wharf, pier, bulkhead, bridge, trestlework, vault, mine, well, excavation, fence, sidewalk, pavement, fountain, fish-pond, drain, sewer, aqueduct, roadbed, way, fruit or ornamental trees, or the appurtenances to any of them, for any owner, contractor or sub-contractor, shall by virtue thereof have a lien for the price of such work, service or materials upon the erection, building, railway, land, wharf, pier, bulkhead, bridge, trestlework, vault, mine, well, excavation, fence, sidewalk, paving, fountain, fishpond, drain, sewer, aqueduct, roadbed, way, fruit or ornamental trees, and appurtenances, and the land occupied thereby or enjoyed therewith, or upon or in respect of which such work or service is performed, or upon which such materials are placed or furnished to be used, limited, however, in amount to the sum justly due to the person entitled to the lien and to the sum justly owing, except as herein provided, by the owner.

7. Where work or service is done or materials are furnished upon or in respect of the land of a married woman with the privity and consent of her husband he shall be conclusively presumed to be acting as well for himself so as to bind his own interest, and also as her agent for the purposes of this Act, unless before doing such work or service or furnishing such materials the person doing or furnishing the same shall have had actual notice to the contrary.

8. (1) The lien shall attach upon the estate or interest of the owner in the property mentioned in section 6.

(2) Where the estate or interest upon which the lien attaches is leasehold the fee simple may also, with the consent of the owner thereof, be subject to the lien, provided that such consent is testified by the signature of the owner upon the claim of lien at the time of the registering thereof, verified by affidavit.

(3) Where the land upon or in respect of which any work or service is performed, or materials are placed or furnished to be used, is encumbered by a prior mortgage or other charge, and the selling value of the land is increased by the work or service, or by the furnishing or placing of the materials, the lien shall attach upon such increased value in priority to the mortgage or other charge.

9. Where any of the property upon which a lien attaches is wholly or partly destroyed by fire any money received by reason of any insurance thereon by an owner or prior mortgagee or chargee shall take the place of the property so destroyed, and shall be subject to the claims of all persons for liens to the same extent as if such money was realized by a sale of such property in an action to enforce the lien.

10. Save as herein otherwise provided the lien shall not attach so as to make the owner liable for a greater sum than the sum payable by the owner to the contractor.

11. Save as herein otherwise provided where the lien is claimed by any person other than the contractor the amount which may be claimed in respect thereof shall be limited to the amount owing to the contractor or sub-contractor or other person for whom the work or service has been done or the materials placed or furnished.

12. (1) In all cases the person primarily liable upon any contract under or by virtue of which a lien may arise shall, as the work is done or materials are furnished under the contract, deduct from any payments to be made by him in respect of the contract, and retain for a period of thirty days after the completion or abandonment of the contract twenty per cent of the value of the work, service and materials actually done, placed or furnished as mentioned in section 6, and such value shall be calculated on the basis of the contract price, or if there is no specific contract price, then on the basis of the actual value of the work, service or materials.

(2) Where the contract price or actual value exceeds \$15,000 the amount to be retained shall be fifteen per cent instead of twenty per cent.

(3) The lien shall be a charge upon the amount directed to be retained by this section in favour of sub-contractors whose liens are derived under persons to whom such moneys so required to be retained are respectively payable.

(4) All payments up to eighty per cent, or eighty-five per cent where the contract price or actual value exceeds \$15,000, of such price or value made in good faith by an owner to a contractor, or by a contractor to a sub-contractor or by one sub-contractor to another sub-contractor, before notice in writing of such lien given by the person claiming the lien to him, shall operate as a discharge *pro tanto* of the lien.

(5) Payment of the percentage required to be retained under subsections 1 and 2 may be validly made so as to discharge all liens or charges in respect thereof after the expiration of the period of thirty days mentioned in subsection 1 unless in the meantime proceedings have been commenced to enforce any lien or charge against any such percentage as provided by sections 23 and 24.

13. If an owner, contractor, or sub-contractor makes a payment to any person entitled to a lien under section 6 for or on account of any debt justly due to him for work or service done or for materials placed or furnished to be used as therein mentioned, for which he is not primarily liable, and within three days afterwards gives, by letter or otherwise, written notice of such payment to the person primarily liable, or his agent, such payment shall be deemed to be a payment on his contract generally to the contractor or sub-contractor primarily liable but not so as to affect the percentage to be retained by the owner as provided by section 12.

14. (1) The lien shall have priority over all judgments, executions, assignments, attachments, garnishments, and receiving orders recovered, issued or made after such lien arises, and over all payments or advances made on account of any conveyance or mortgage after notice in writing of such lien to the person making such payments or after registration of a claim for such liens as hereinafter provided.

(2) Where there is an agreement for the purchase of land, and the purchase money or part thereof is unpaid, and no conveyance has been made to the purchaser, he shall, for the purposes of the Act, be deemed a mortgagor and the seller a mortgagee.

(3) Except where it is otherwise provided by this Act no person entitled to a lien on any property or money shall be entitled to any priority or preference over another person of the same class entitled to a lien on such property or money, and each class of lien holders shall rank *pari passu* for their several amounts, and the proceeds of any sale shall be distributed among them *pro rata* according to their several classes and rights.

15. (1) Every mechanic or labourer whose lien is for wages shall, to the extent of thirty days' wages, have priority over all other liens derived through the same contractor or sub-contractor to the extent of and on the twenty per cent or fifteen per cent, as the case may be, directed to be retained by section 12, to which the contractor or sub-contractor through whom such lien is derived is entitled, and all such mechanics and labourers shall rank thereon *pari passu*.

(2) Every wage-earner shall be entitled to enforce a lien in respect of a contract not completely fulfilled.

(3) If the contract has not been completed when the lien is claimed by a wage-earner, the percentage shall be calculated on the value of the work done or materials furnished by the contractor or sub-contractor by whom such wage-earner is employed, having regard to the contract price, if any.

(4) Where the contractor or sub-contractor makes default in completing his contract the percentage shall not, as against a wage-earner claiming a lien, be applied by the owner or contractor to the completion of the contract or for any other purpose, nor to the payment of damages for the non-completion of the contract by the contractor or sub-contractor, nor in payment or satisfaction of any claim against the contractor or sub-contractor.

(5) Every device by an owner, contractor or sub-contractor to defeat the priority given to a wage-earner for his wages, and every payment made for the purpose of defeating or impairing a lien shall be null and void.

## Material.

16. (1) During the continuance of a lien no part of the material affected thereby shall be removed to the prejudice of the lien.

(2) Material actually brought upon any land to be used in connection with such land for any of the purposes enumerated in section 6, shall be subject to a lien in favour of the person furnishing it until placed in the building, erection or work, and shall not be subject to execution or other process to enforce any debt other than for the purchase thereof, due by the person furnishing the same.

## Registration of Lien.

(As to registration of liens against mining claims and mining lands, see R.S.O. c. 32, s. 182.)

17. (1) A claim for a lien, Forms 1, 2 and 3, may be registered in the registry office of the registry division, or where the land is registered under The Land Titles Act in the land titles office of the locality in which the land is situate, and shall set out:—

(a) the name and residence of the person claiming the lien and of the owner, or of the person whom the person claiming the lien, or his agent, believes to be the owner of the land, and of the person for whom the work or service was or is to be done, or materials furnished or placed, and the time within which the same was or was to be done or furnished or placed;

(b) a short description of the work or service done or to be done, or materials furnished or placed or to be furnished or placed;

(c) the sum claimed as due or to become due;

(d) a description of the land sufficient for the purpose of registration and, where the land is registered under The Land Titles Act, also a reference to the number of the parcel of the land and to the registrar in which such land is registered in the Land Titles Office;

(e) the date of expiry of the period of credit when credit has been given.

(2) The claim shall be verified by the affidavit, Form 4, of the person claiming the lien, or of his agent or assignee having a personal knowledge of the matters required to be verified, and the affidavit of the agent or assignee shall state that he has such knowledge.

(3) When it is desired to register a claim for lien against a railway it shall be a sufficient description of the land of the railway company to describe it as the land of the railway company, and every such claim shall be registered in the general registry in the registry office for the registry division within which such lien is claimed to have arisen.

18. A claim for lien may include claims against any number of properties, and any number of persons claiming liens upon the same property may unite therein, but where more than one lien is included in one claim each lien shall be verified by affidavit as provided in section 17.

19. (1) A substantial compliance with sections 17 and 18 shall be sufficient, and no lien shall be invalidated by reason of failure to comply with any of the requisites of those sections unless, in the opinion of the court, judge or officer who tries an action under this Act, the owner, contractor or sub-contractor, mortgagee or other person, is prejudiced thereby, and then only to the extent to which he is thereby prejudiced.

(2) Nothing in this section shall dispense with registration of the claim for lien.

20. (1) The registrar, upon payment of the proper fee, shall register the claim, describing it as "Mechanics' Lien," against the land therein described in like manner as if it were a mortgage, but he shall not copy the claim or affidavit in any registry book.

(2) The fee for registration of a claim for lien shall be twenty-five cents, and if several persons join in one claim the registrar shall be entitled to a further fee of ten cents for each person after the first.

21. Where a claim is so registered the person entitled to the lien shall be deemed a purchaser *pro tanto* and within the provisions of The Registry Act and The Land Titles Act, but except as herein otherwise provided those acts shall not apply to any lien arising under this Act.

22. (1) A claim for lien by a contractor or sub-contractor in cases not otherwise provided for, may be registered before or during the performance of the contract, or within thirty days after the completion or abandonment thereof.

(2) A claim for lien for materials may be registered before or during the furnishing or placing thereof, or within thirty days after the furnishing or placing of the last material so furnished or placed.

(3) A claim for lien for services may be registered at any time during the performance of the service or within thirty days after the completion of the service.

(4) A claim for lien for wages may be registered at any time during the performance of the work for which such wages are claimed, or within thirty days after the last work is done for which the lien is claimed.

(5) In the case of a contract which is under the supervision of an architect, engineer or other person upon whose certificate payments are to be made, the claim for lien by a contractor may be registered within the time mentioned in subsection (1), or within seven days after the architect, engineer or other person has given, or has, upon application to him by the contractor, refused to give a final certificate.

#### Expiry and Discharge of Lien.

23. Every lien for which a claim is not registered shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof unless in the meantime an action is commenced to realize the claim, or in which the claim may be realized under the provisions of this Act, and a certificate thereof is registered in the registry office in which the claim for lien might have been registered.

24. (1) Every lien for which a claim has been registered shall absolutely cease to exist on the expiration of ninety days after the work or service has been completed or materials have been furnished or placed, or after the expiry of the period of credit, where such period is mentioned in the claim for lien registered, or in the cases provided for by subsection 5 of section 22, on the expiration of thirty days from the registration of the claim, unless in the meantime an action is commenced to realize or in which the claim may be realized under the provisions of this Act, and a certificate is registered as provided by the next preceding section.

(2) Where the period of credit mentioned in the claim for lien registered has not expired it shall nevertheless cease to have any effect on the expiration of six months from the registration or any re-registration thereof if the claim is not again registered within that period, unless in the meantime an action is commenced and a certificate thereof has been registered as provided by subsection (1).

25. If there is no period of credit, or if the date of the expiry of the period of credit is not stated in the claim so registered, the lien shall cease to exist upon the expiration of ninety days after the work or service has been completed or materials furnished or placed, unless in the meantime an action is commenced and a certificate thereof registered as provided by section 23.

26. The right of a lien holder may be assigned by an instrument in writing and, if not assigned, upon his death shall pass to his personal representative.

27. (1) A lien may be discharged by a receipt signed by the claimant, or his agent duly authorized in writing, acknowledging payment, and verified by affidavit and registered.

(2) The receipt shall be numbered and entered like other instruments, but shall not be copied in any registry book, and there shall be entered against the entry of the lien to which the discharge relates the word, "discharged" and the registration number of such discharge.

(3) The fee shall be the same as for registering a claim.

(4) Upon application the court, judge or officer having jurisdiction to try an action to realize a lien, may allow security for or payment into court of the amount of the claim, and may thereupon order that the registration of the lien be vacated or may vacate the registration upon any other proper ground and a certificate of the order may be registered.

(5) Where the certificate required by sections 23 or 24 has not been registered within the prescribed time, and an application is made to vacate the registration of a claim for lien after the time for registration of the certificate required by sections 23, 24 or 25, the order vacating the lien may be made *ex parte* upon production of the certificate of the proper registrar certifying the facts entitling the applicant to such order.

#### Effect of Taking Security or Extending Time.

28. (1) The taking of any security for, or the acceptance of any promissory note or bill of exchange for, or the taking of any acknowledgment of the claim, or the giving of time for the payment thereof, or the taking of any proceedings for the recovery, or the recovery of a personal judgment for the claim, shall not merge, waive, pay, satisfy, prejudice or destroy the lien unless the claimant agrees in writing that it shall have that effect.

(2) Where any such promissory note or bill of exchange has been negotiated the lien holder shall not thereby lose his lien if, at the time of bringing his action to enforce it, or where an action is brought by another lien holder, he is, at the time of proving his claim in such action, the holder of such promissory note or bill of exchange.

(3) Nothing in subsection 2 shall extend the time limited by this Act for bringing the action to enforce the lien.

(4) A person who has extended the time for payment of a claim for which he has a lien, to obtain the benefit of this section, shall commence an action to enforce such

lien within the time prescribed by this Act, and shall register a certificate as required by sections 23, 24 or 25, but no further proceedings shall be taken in the action until the expiration of such extension of time.

29. Where the period of credit in respect of a claim has not expired, or where there has been an extension of time for the payment of the claim, the lien holder may nevertheless, if an action is commenced by any other person to enforce a lien against the same property, prove and obtain payment of his claim in such action as if the period of credit or the extended time had expired.

#### Lien Holder's Right to Information.

30. (1) Any lien holder may at any time demand of the owner or his agent the terms of the contract or agreement with the contractor for and in respect of which the work, service or material is or is to be performed or furnished or placed, and if such owner or his agent does not, at the time of such demand or within a reasonable time thereafter, inform the person making such demand of the terms of such contract or agreement, and the amount due and unpaid upon such contract or agreement, or if he knowingly falsely states the terms of the contract or agreement or the amount due or unpaid thereon, and if the person claiming the lien sustains loss by reason of such refusal or neglect or false statement, the owner shall be liable to him in an action therefor for the amount of such loss.

(2) The court, judge, or officer having jurisdiction to try an action to realize a lien may, on a summary application at any time before or after an action is commenced for the enforcement of such lien, make an order requiring the owner or his agent to produce and allow any lien holder to inspect any such contract or agreement upon such terms as to costs as he may deem just.

#### Action to Realize Claim.

31. (1) A lien may be realized by action in the Supreme Court, according to the ordinary procedure of that court, excepting where the same is varied by this Act.

(2) Without issuing a writ of summons an action shall be commenced by filing in the proper office a statement of claim, verified by affidavit, Form 5.

(3) The statement of claim shall be served within one month after it is filed, but a judge or officer having jurisdiction to try the action may extend the time for service thereof, and the time for delivering the statement of defence shall be the same as for entering an appearance in an action in the Supreme Court.

(4) It shall not be necessary to make any lien holders parties defendant to the action, but all lien holders served with the notice of trial shall for all purposes be deemed parties to the action.

32. Any number of lien holders claiming liens on the same land may join in an action, and an action brought by a lien holder shall be taken to be brought on behalf of the other lien holders.

33. The action may be tried before the master in ordinary, a local master of the Supreme Court, an official referee, or a judge of the County or District Court, in any county or district in which the land is situate, or before a judge of the Supreme Court.

34. The master in ordinary, the local masters, official referees, and the judges of the county and district courts, in addition to their ordinary powers, shall have all the jurisdiction, powers and authority of the Supreme Court to try and completely dispose of the action and all questions arising therein.

35. Where more actions than one are brought to realize liens in respect of the same land a judge or officer having jurisdiction to try such actions may, on the application of any party to any one of them, or on the application of any other person interested, consolidate all such actions into one action, and may give the conduct of the consolidated action to any plaintiff as he may see fit.

36. Any lien holder entitled to the benefit of an action may apply for the carriage of the proceedings, and the judge or officer may make an order giving such lien holder the carriage of the proceedings.

37. (1) After the delivery of the statement of defence where the plaintiff's claim is disputed, or after the time for delivery of defence in all other cases, where it is desired to try the action otherwise than before a judge of the Supreme Court, either party may apply *ex parte* to a judge or officer who has jurisdiction to try the action to fix for the trial thereof, and the judge or officer shall appoint the day and place of trial. 1914, c. 21, s. 30 (1).

(2) The party obtaining an appointment for the trial shall, at least eight clear days before the day appointed, serve notice of trial, Form 6, upon the solicitors for the defendants who appear by solicitors, and upon defendants who appear in person, and on all lien holders who have registered their claims as required by this Act, or who are known to him, and on all other persons having any charge, incumbrance or claim on



the land subsequent in priority to the lien, who are not parties, and such service shall be personal unless otherwise directed by the Judge or officer who may direct in what manner the notice of trial may be served.

(3) The Judge or officer shall try the action and all questions which arise therein or which are necessary to be tried in order to completely dispose of the action and to adjust the rights and liabilities of the persons appearing before him or upon whom the notice of trial has been served, and shall take all accounts, make all inquiries, give all directions, and do all other things necessary to finally dispose of the action and of all matters, questions, and accounts arising therein or at the trial, and to adjust the rights and liabilities of and give all necessary relief to all parties to the action and all persons who have been served with the notice of trial, and shall embody the results in a judgment, Form 7.

(4) The Judge or officer may order that the estate or interest on which the lien attaches be sold, and where, by the judgment, a sale is directed he may direct the sale to take place at any time after the judgment, allowing a reasonable time for advertising such sale.

(5) The Judge or officer may also direct the sale of any materials and authorize the removal thereof.

(6) A lien holder who has not proved his claim at the trial, on application to the Judge or officer before whom the action was tried, may be let in to prove his claim on such terms as to costs and otherwise as may be deemed just at any time before the amount realized in the action for the satisfaction of liens has been distributed, and where such a claim is allowed the judgment shall be amended so as to include such claim.

(7) Every lien holder for an amount not exceeding \$100 may be represented by a solicitor or by an agent who is not a solicitor.

38. Where a sale is had the Judge or officer with whose approbation the sale takes place shall make a report thereon and therein direct to whom the money realized shall be paid, and may add to the claim of the person conducting the sale his fees and actual disbursements in connection therewith, and where enough to satisfy the judgment and costs is not realized he shall certify the amount of the deficiency and the names of the persons, with their amounts, who are entitled to recover the same, and the persons by the judgment adjudged to pay the same, and the persons entitled may enforce payment by execution or otherwise as on a judgment. 1914, c. 21, s. 30 (2).

39. Where property subject to a lien is sold in an action to enforce a lien, every lien holder shall be entitled to share in the proceeds of the sale in respect of the amount then owing to him, although the same or part thereof was not payable at the time of the commencement of the action or is not then presently payable.

#### New Trial and Appeal.

40. (1) Where the aggregate amount of the claims of the plaintiff and all other persons claiming liens is not more than \$100 the judgment shall be final and without appeal, but the Judge or officer who tried the action may, upon application within fourteen days after judgment is pronounced, grant a new trial.

(2) Where the aggregate amount of the claims of the plaintiff and all other persons claiming liens is more than \$100 and not more than \$500 any person affected by the judgment may appeal therefrom to a Divisional Court, whose judgment shall be final and without appeal.

(3) In all other cases an appeal shall lie and may be had in like manner and to the same extent as from the decision of a judge trying an action in the Supreme Court without a jury.

#### Fees and Costs.

41. (1) No fees in stamps or money shall be payable to any officer, nor on any filing, order, record, judgment, or other proceeding, excepting that every person other than a wage-earner shall, on filing his statement of claim where he is a plaintiff, or on filing his claim where he is not a plaintiff, pay in stamps \$1 on every \$100 or fraction of \$100 of the amount of his claim up to \$1,000.

(2) When the proceedings are taken before a local master who is paid by fees such amount shall be payable to him in cash instead of in stamps.

42. The costs of the action, exclusive of actual disbursements awarded to the plaintiffs and successful lien holders, shall not exceed in the aggregate twenty-five per cent of the total amount awarded to them by the judgment, and shall be apportioned and borne in such proportion as the Judge or officer who tries the action may direct.

43. Where costs are awarded against the plaintiff or other persons claiming liens they shall not exceed twenty-five per cent of the claim of the plaintiff and the other claimants, besides actual disbursements, and shall be apportioned and borne as the Judge or officer may direct.



44. Where the least expensive course is not taken by a plaintiff the costs allowed to him shall in no case exceed what would have been incurred if the least expensive course had been taken.

45. Where a lien is discharged or vacated under section 27, or where judgment is given in favour of or against a claim for a lien, in addition to the costs of the action, the Judge or officer may allow a reasonable amount for the costs of drawing and registering the claim for lien or of vacating the registration thereof.

46. The costs of and incidental to all applications and orders not otherwise provided for shall be in the discretion of the Judge or officer.

#### Payment Out of Court.

47. (1) (Subject to the provisions of subsection 1a). Except in actions tried by a Judge in the Supreme Court, the judge or officer who tries the action, where money has been paid into court and the time for payment out has arrived, shall forward a requisition for cheques with a certified copy of his judgment and of the report on sale, if any, to the Accountant of the Supreme Court who shall, upon receiving the same, make out and return to the Judge or officer cheques for the amounts payable to the persons mentioned in the requisition, and the Judge or officer, on receipt of cheques, shall distribute them to the persons entitled. 1914, c. 21, s. 31 (1.)

1a. In the city of Toronto the cheques shall be delivered by the accountant to the persons entitled or their solicitors without any requisition from such Judge or officer in accordance with the usual practice in the accountant's office. 1914, c. 2, s. 31 (2).

(2) No fees or stamps shall be payable on any cheques or on proceedings to pay money into court or to obtain money out of court, in respect of a claim for a lien, but sufficient postage stamps to prepay a return registered letter shall be enclosed with every requisition for cheques.

#### Judgment in Actions.

48. All judgments in favour of lien holders shall adjudge that the party personally liable for the amount of the judgment shall pay so much of any deficiency which may remain after sale of the property directed to be sold as might have been recovered in an ordinary action against him, and where on the sale enough to satisfy the judgment and costs is not realized such part of the deficiency may be recovered by execution against the property of such party.

49. Where a claimant fails to establish a valid lien he may nevertheless recover a personal judgment against any party to the action for such sum as may appear to be due to him and which he might recover in an action against such party.

#### Liens on Chattels.

50. (1) Every mechanic or other person who has bestowed money or skill and materials upon any chattel or thing in the alteration and improvement of its properties, or for the purpose of imparting an additional value to it, so as thereby to be entitled to a lien upon such chattel or thing for the amount or value of the money or skill and materials bestowed shall, while such lien exists but not afterwards, in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid, have the right, in addition to any other remedy to which he may be entitled, to sell by auction the chattel or thing, on giving one week's notice by advertisement in a newspaper published in the municipality in which the work was done, or in case there is no newspaper published in such municipality then in a newspaper published nearest thereto, setting forth the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the last known place of residence, if any, of the owner, if he is a resident of such municipality.

(2) Such mechanic or other person shall apply the proceeds of the sale in payment of the amount due to him and the costs of advertising and sale, and shall, upon application, pay over any surplus to the person entitled thereto.

(Forms and schedules omitted.)

#### Woodmen's Liens.

Chapter 141.—1. This Act may be cited as The Woodman's Lien for Wages Act.

2. This Act shall apply only to the Provisional County of Haliburton and to the Provisional Judicial Districts.

3. In this Act,

(a) "Bailiff" shall include a constable who under "The Division Courts Act" may execute an attachment or perform other service.

(b) "Labour" shall mean and include cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting or booming any logs or timber, and any work done by the cooks, blacksmiths, artisans and others usually employed in connection therewith;

(c) "Logs or timber" shall mean and include logs, cordwood, timber, cedar posts, telegraph poles, railroad ties, tan bark, pulpwood, shingle bolts and staves or any of them.

4. Wherever in this Act any act is required to be done by, or any paper to be filed or proceedings taken in the office of the Clerk of the District Court of a District, or jurisdiction is conferred upon a District Court or the Judge thereof, the like acts may be done, papers filed and proceedings taken by and in the office of the Clerk of the County Court of the County of Victoria, and the like jurisdiction may be exercised by that court or a Judge thereof in respect of matters arising in the Provisional County of Haliburton.

5. (1) Every agreement, verbal or written, express or implied, on the part of any person employed in labour that this Act shall not apply, or that the remedies provided by it shall not be available for the benefit of such person, shall be null and void.

(2) This section shall not apply to any manager, officer or foreman, or to any person whose wages are more than \$3 a day.

6. (1) A person performing labour shall have a lien upon the logs or timber in connection with which the labour is performed for the amount due for such labour, and the same shall have precedence over all other claims or liens thereon, except a claim or lien of the Crown for any dues or charges of which a timber slide company or any owner of a slide or boom may have thereon for tolls.

(2) A contractor who has entered into any agreement under the terms of which he himself or by others in his employ has cut, removed, taken out or driven logs or timber, shall be deemed to be a person performing labour upon logs or timber within the meaning of this section, and such cutting, removal, taking out and driving shall be deemed to be the performance of labour within the meaning of this section.

7. The lien shall cease unless the claim therefor is filed and proceedings are taken to enforce the same as hereinafter provided.

8. (1) The person claiming the lien shall state his claim in writing, Form 1, setting out briefly the nature of the claim, the amount claimed to be due and a description of the logs or timber upon which the lien is claimed.

(2) The claim shall be verified by the affidavit of the claimant, his solicitor or agent.

(3) In the case of a contractor coming within the provisions of subsection 2 of section 6 the claim and affidavit shall be filed on or before the first day of September next following the performing of the labour.

(4) In other cases, if the labour was performed between the first day of October and the first day of April next thereafter, the claim shall be filed on or before the 30th day of the same month of April, but if the labour was performed on or after the 1st day of April and before the 1st day of October in any year the claim shall be filed within thirty days after the last day on which such labour or any part thereof was performed.

9. (1) Except as hereinafter provided the claim and affidavit shall be filed in the office of the District Court of the Provisional Judicial District in which the labour or some part thereof was performed.

(2) Where the labour was performed upon logs or timber got out to be run down or which have been run down any of the rivers or streams flowing into the Georgian Bay, Lake Huron, Lake Superior, Lake of the Woods, Rainy Lake or Rainy River or Pigeon River, the claim may, at the option of the claimant, be filed in the office of the Clerk of the District Court of the district in which the labour was performed or in the office of the Clerk of the District Court of the district in which the drive terminates or reaches the waters of such bay, lake or river.

(3) Where the labour or some part of it was performed in the Provisional County of Haliburton the claim may be filed in the office of the Clerk of the County Court of the County of Victoria.

10. No sale or transfer of the logs or timber during the time limited for the filing of the claim and previous to the filing thereof, or after the filing thereof and during the time limited for the enforcement thereof, shall affect the lien but the same shall remain in force against such logs and timber in whosoever possession the same shall be found.

11. (1) Any person having a lien upon logs or timber may enforce the same by suit, where the claim does not exceed \$200, in the Division Court within whose jurisdiction the logs or timber or any part thereof may be at the time of the commencement of the suit, or, where the claim exceeds \$200, in the proper District Court where the claim is filed, and such suit may be commenced to enforce such lien, if the claim is then payable, immediately after the filing of the claim, or, if credit has been given, immediately after the expiry of the period of credit, and such lien shall cease unless the proceedings to enforce the same are commenced within thirty days after the filing of the claim or after the expiry of the period of credit.

(2) In all such suits the person liable for the payment of the claim shall be made the party defendant.

(3) Where the defendant is not the owner of the logs a copy of the writ shall be served on the owner as well as the defendant, or the person or agent in whose possession, custody or control they may be found, or the person in charge of the operations in respect of which the claim of lien arose.

(4) The owner may, on his own application, or by direction of the Judge, be made a party defendant.

12. (1) There shall be attached to or endorsed upon the writ or summons a copy of the claim filed, and no statement of claim shall be necessary unless ordered, and no pleading or notice of dispute or defence other than such as is required in a suit or proceeding in a Division Court shall be necessary whether the suit is brought in a District or in a Division Court.

(2) Where no dispute or defence is filed judgment may be signed and execution issued.

(3) The Court or Judge may order particulars to be given or amendments to be made, or may add or strike out the names of parties and may set aside judgment and permit a dispute or defence to be filed, on such terms as may appear just.

(4) The writ or summons shall be in the form, as nearly as may be, of that in use in the Court in which it is issued, but the practice thereafter shall follow as nearly as may be that of the Division Court.

(5) A writ or summons may be served anywhere in Ontario in the same manner as in other cases.

(6) The judgment shall declare that the same is for wages, the amount thereof and costs, and that the plaintiff has a lien therefor on the property described when such is the case.

13. Where an execution has been placed in the hands of a sheriff or bailiff for execution, and no attachment has been issued, the proceedings for the enforcement of the lien shall be by sale under the execution, and the proceedings relating to proof of other claims and the payment of money into court and the distribution of the money and otherwise shall, as far as practicable, be the same as is hereinafter provided for proceedings upon and subsequent to an attachment.

14. (1) Where an attachment issues in the first instance the statement of claim and defence and proceedings to judgment shall be the same as where a suit has been begun by writ or summons.

(2) Where an attachment issues after proceedings have been commenced by writ or summons the proceedings, except such as are necessary to be taken under the attachment, shall be carried to judgment under the writ of summons.

15. The forms of attachment shall be as nearly as may be the same as are in use in the District Courts or in the Division Courts.

16. (1) Whether the proceedings are commenced by writ or summons or attachment the Judge may direct that the same shall be disposed of summarily by him without waiting for the regular sittings of the court, upon such terms as to notice and otherwise as he may deem proper, and the same may be so disposed of.

(2) The Judge may set aside an attachment or seizure or direct the release of logs or timber that have been seized on such terms as he may deem proper.

17. Where the amount of the claim does not exceed \$200, and is not less than \$10, upon the production and filing of a copy of the claim and affidavit and an affidavit of the claimant verifying the claim, and showing that the same has been filed and stating that

(a) he has good reason to believe and does believe that the logs or timber are about to be removed out of Ontario, or

(b) that the person indebted has absconded from Ontario with intent to defraud or defeat his creditors, or

(c) that the logs or timber are about to be cut into lumber or other timber so that the same cannot be identified, and

(d) that he is in danger of losing his claim if attachment does not issue, and if affidavits of two persons corroborating the affidavit of the plaintiff in respect to clauses (a), (b) or (c) are also filed the Clerk of the proper Division Court shall issue a warrant, as in the case of an attachment under section 199 of "The Division Courts Act," directed to the bailiff of the Division Court commanding such bailiff to attach, seize, take and safely keep such logs or timber or a sufficient part thereof to satisfy the amount claimed and the costs of the suit and of the proceedings to enforce the lien, and to return the warrant forthwith to the Court out of which the same issued.

18. (1) Where the amount claimed exceeds \$200, upon the filing of a copy of the claim, and affidavit, the Clerk of the District Court of the district where the action may be brought, upon the filing of an affidavit made by the claimant showing such facts as would authorize the issue of an attachment under the next preceding section

and such affidavit in corroboration as is provided in the next preceding section, shall issue a writ of attachment directed to the sheriff of the district commanding him to attach, seize and take and safely keep the logs or timber or a sufficient part thereof to satisfy the amount claimed and the costs of the suit and of the proceedings to enforce the lien.

(2) Where additional claims are made, or the amount of the claim is increased or a sufficient seizure has not been made, a second or subsequent seizure may be made either under the execution or attachment.

19. (1) The warrant or writ of attachment shall also, where no writ or summons has issued, summon the defendant to appear before the District Court or Division Court out of which the attachment issued, and a copy of the writ of attachment shall be served upon the defendant, and, if the defendant is not the owner of the logs or timber described in the warrant a writ of attachment shall also be served upon the owner of the logs or timber or upon the person or agent in whose possession, custody or control they may be found.

(2) When a warrant or writ is served upon a person in possession an order of the Judge allowing the service shall be necessary.

(3) Where the defendant or the owner of the logs or timber cannot be found within the district, and there is no one in possession of the logs or timber, a copy of the warrant or writ may be forwarded to the sheriff of any county or district or the bailiff of any Division Court within whose jurisdiction the defendant or the owner resides or may be found, and such copy may be served by the sheriff or the bailiff upon the defendant or the owner.

(4) The owner may, on his own application or by direction of the Judge, be made a party defendant.

(5) If the defendant or the owner cannot be found within Ontario or the owner cannot be ascertained, and no person is in possession of the logs or timber, the warrant or writ may be served in such manner as the Judge directs.

(6) Notwithstanding that a defence has not been entered the Judge may admit the defendant and the owner or either of them to make full defence upon such terms as he may deem just.

20. A sheriff or bailiff shall not seize or detain under a warrant or writ of attachment any logs or timber when in transit from the place where cut to the place of destination when such place of destination is within the district in which the proceedings were commenced, but if such logs or timber are so in transit, or are in the possession of any person for the purpose of being driven or sorted and delivered to the owner, or to satisfy any statutory lien, attachment of the logs or timber may be made by serving a copy of the warrant or writ upon the person in whose possession, custody or control they are, who shall from the time of such service hold the same, both on his own behalf and for the sheriff or bailiff to the extent of the lien, until the logs or timber have reached their place of destination or are driven or sorted, as the case may be, and when they have reached their place of destination or are driven or sorted the sheriff or bailiff may receive the logs or timber from such person, and the statutory lien of such person shall be released by the holding of such sheriff or bailiff.

21. The claimant or the plaintiff, and the sheriff or bailiff may, by leave of the Judge, take any proceedings which the owner of any logs or timber may take under "The Saw Logs Driving Act" for the purpose of procuring the separation of any logs or timber so seized by the sheriff or bailiff under this Act from other logs or timber with which they have become intermixed, or a sale may be made without such separation if the Judge so directs.

22. In case of an attachment, if the owner of the logs or timber or any person on his behalf executes and files with the clerk of the court out of which the attachment issued a good and sufficient bond to the person claiming the lien, executed by two sureties and approved by the clerk conditioned for the payment of the claim and of all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings, together with the amount for which a lien is claimed in any other suit, the clerk shall issue an order to the sheriff or bailiff having in charge the logs or timber directing their release, and upon service of such order upon the sheriff or bailiff he shall release the same.

23. (1) Any person who has been served with a copy of the warrant or writ of attachment and who desires to dispute the claim shall, within fourteen days after such service, enter in the court in which proceedings are pending a notice that he disputes the claim in whole or in part.

(2) If no notice of dispute is entered judgment may be entered as in the case of default, and the practice and procedure shall be the same as in a suit begun by writ or summons.

24. (1) The defendant may, at any time before the sale of the logs or timber, pay into court the amount for which the lien is claimed, together with the amount for which

a lien is claimed in any other suit, and also the costs of the proceedings to date of such payment to be taxed by the clerk of the court if required, and shall thereupon be entitled to a certificate vacating the liens.

(2) Upon such certificate being filed with the clerk of the court in which the claim was filed the liens shall be vacated and all further proceedings thereon shall cease, and the defendant shall be entitled to an order directing the delivery up of the logs or timber seized under the attachment, or the cancellation of any bond given under section 22.

25. (1) After the expiration of the time within which a notice of dispute may be entered the Judge shall, upon the application of the plaintiff, appoint a day upon which all persons claiming a lien on the logs or timber shall appear before him for the adjustment of their claims and the settlement of accounts.

(2) The appointment shall be served upon the defendants and upon the owner, if the Judge so directs, and shall also, if the Judge so directs, be published once a week for two weeks before the day appointed in a newspaper having a general circulation in the district in which proceedings are pending.

(3) A copy of the appointment shall also be sent by registered post to every claimant known to the plaintiff and to the Minister of Lands, Forests and Mines, at least two weeks before the day appointed, directed to the post office address of such claimant where the same is known, and if not known then to his last known address.

26. (1) Upon the day named in the appointment the persons served with a copy thereof, and all other persons claiming a lien on the logs or timber who have prior to that date filed with the clerk a notice claiming a lien on the logs or timber and stating the nature and amount of their claims, shall attend before the Judge.

(2) Where a claim is brought in pursuant to the notice it may be established *prima facie* by affidavit, but any person interested may cross-examine a deponent, and may require that the claim be established as in other cases.

(3) The Judge shall hear all parties and take all accounts necessary to determine the amounts due to the claimants, and shall tax costs, and determine by whom the same shall be paid, and settle priorities and generally determine all such matters as may be necessary for the adjustment of the rights of all parties.

27. (1) At the conclusion of the inquiry the Judge shall make his report and order which shall state his findings and direct the payment into court within ten days thereafter of the amounts found due and the costs, and, in default of payment, that the logs or timber shall be sold by the sheriff or bailiff for the satisfaction thereof.

(2) In default of payment into court within the time named in the order the logs or timber shall, within twenty days thereafter, be sold by the sheriff or bailiff in the same manner and subject to the same provisions of law as goods seized or taken in execution, or after such additional publicity has been given to the sale as the Judge may direct.

(3) The amount realized by the sale shall, after deducting the expenses thereof, and the fees and poundage of the sheriff or bailiff, be paid into court and shall be paid out by the clerk to the parties entitled thereto under the order of the Judge.

(4) Where the amount realized upon the sale is not sufficient to pay the claims and costs in full the Judge shall apportion the amount realized *pro rata* among the claimants.

(5) Where after sale and distribution any balance remains due to any person under the order of the Judge the clerk shall, upon application of such person, give to him a certificate that such amount remains due, and such certificate may be entered as a judgment in the District Court or Division Court having jurisdiction against the person by whom the claim is directed to be paid, and execution may be issued thereupon.

28. Where nothing is found due upon the several claims filed or upon the lien with respect to which proceedings have been taken the Judge may order that the lien be discharged and the logs or timber released or the security given therefor delivered up and cancelled, and may order payment of any costs which may be found due to the defendant or the owner of the logs or timber.

29. (1) Where the taxed costs, exclusive of necessary disbursements, which are payable out of the amount realized for the satisfaction of the lien exceed twenty-five per cent of the amount realized such costs, upon application by any party, may be reduced by the Judge so that the same shall not in the aggregate exceed twenty-five per cent and no more costs than such reduced amount shall be recovered between party and party or solicitor and client.

(2) The costs in addition to actual and necessary disbursements which may be taxed to any claimant proving an uncontested claim shall not exceed \$5 if a solicitor is employed, and where the amount claimed is within the jurisdiction of the Division Court shall not exceed \$2 where a solicitor is employed.

(3) In case of a contest, where a solicitor is employed, the Judge may allow such costs, not exceeding in any case \$10 when taxed on the District Court scale or \$5 when

taxed on the Division Court scale, in addition to actual and necessary disbursements, but where the claim does not exceed \$50 then such costs shall not exceed \$3.

(4) Subject to the provisions of this section the costs to be taxed to any party shall, as far as possible, be according to the tariff of costs in force as to other proceedings in the Court in which proceedings under this Act have been taken.

30. (1) Where money paid into Court as the proceeds of the sale of logs or timber is more than sufficient to satisfy the claims which have been proved with interest and costs the Judge, upon the application of any creditor within thirty days from the day fixed by the order for payment, shall order that such remaining money be paid over to the sheriff who shall hold and distribute the same as provided by "The Creditors' Relief Act" in the case of money levied under execution, and all parties having claims may take the like proceedings as those provided by "The Creditors' Relief Act" for proving claims and obtaining certificates or executions.

(2) If no such application is made to the Judge within such period of thirty days the Judge may order payment out of court of any remaining money to the person entitled thereto.

31. Any person affected by proceedings taken under this Act may apply to the Judge to dismiss the same for want of prosecution, and the Judge may make such order upon the application as he may deem just.

32. (1) Nothing in this Act shall deprive any person of any other remedy to which he may be entitled for the recovery of any amount due in respect of labour performed upon or in connection with any logs or timber.

(2) Where an action is brought to enforce a lien, but no lien is found to exist in respect of the claim, judgment may be given for any amount found due as in an ordinary action.

33. Any number of lien holders may join in taking proceedings under this Act, or may assign their claims to any one or more persons, but the claim to be filed under section 8 shall include particular statements of the several claims joined which shall be verified by the affidavits of the persons so joining, or separate claims may be filed and one writ, summons or attachment issued on behalf of all the persons so joining.

34. Where proceedings have been commenced in the District Court and proceedings are brought or are thereafter pending in respect of the same logs or timber, or any part of them, in a Division Court the Judge may order the proceedings in the Division Court to be adjourned before him, and shall in his inquiry include the claims in respect of which proceedings are pending in the Division Court, and thereafter all persons who have filed claims in the Division Court shall be entitled to prove their claims and to share in the benefit of the proceedings in the District Court.

35. Where suits are brought in several District Courts, or in several Division Courts, the procedure under sections 25 to 27 shall be had in the District or Division Court out of which an execution or attachment first issued, unless the Judge of such Court shall otherwise order.

36. The practice and procedure in actions brought in the District Courts or in Division Courts, shall, so far as they are not inconsistent with this Act, apply to proceedings taken under this Act.

37. Any person who unlawfully and maliciously, and without reasonable and probable cause, takes, or causes to be taken, proceedings under this Act by which logs or timber are seized, detained or sold shall be liable therefor in an action at the suit of any person aggrieved thereby, and shall also be liable for all loss and damage occasioned by such seizure by reason of such logs or timber breaking away or being scattered or lost, or otherwise.

38. (1) No payment of wages shall be made or offered to any person for any labour performed upon or in connection with any logs or timber by any cheque, order, I.O.U., bill of exchange, promissory note, or other undertaking, other than a bank note or bill, drawn upon or payable at or within any place out of Ontario.

(2) Any person violating, or who shall direct or knowingly suffer his agent or servant to violate, the provisions of this section shall incur a penalty of not less than \$5 and not more than \$20, to be recovered under the provisions of The Ontario Summary Convictions Act.

39. No payment made or offered to be made in violation of section 38 shall be a defence to an action or proceeding for the recovery of wages, or be receivable in evidence therein, nor shall any such payment or offer of payment in any way affect any claim of lien for labour on logs or timber under this Act, but in case of the sale, or transfer of any instrument mentioned in section 38 in whole or in part, by the payee the consideration received by him shall be treated as payment on account.

40. The Judges of the District Courts, or a majority of them, may prepare and adopt forms of writs, summonses, attachments and other forms for the more convenient carrying out of the provisions of this Act, and thereafter the same shall be used instead of the forms prescribed by this Act.

(Forms omitted.)



### Protection of Wages on Public and Subsidized Works and on Works by Chartered Companies.

Chapter 142.—1. This Act may be cited as The Public and other Works Wages Act.

2. If any contractor with His Majesty, or any sub-contractor in the construction of any public work let under contract by His Majesty, makes default in the payment of the wages of any foreman, workman or labourer employed on such work, or in the payment of any sum due by him for the labour of any such foreman, workman or labourer, or of any team employed on such work, and if a claim therefor is filed in the office of the Minister entering into such contract on behalf of His Majesty, not later than two months after the same becomes due, and satisfactory proof thereof is furnished, His Majesty may pay such claim to the extent of the amount of all moneys or securities in the hands of His Majesty for securing the performance of the contract at the time of the filing of the claim.

3. The Minister may, in writing, require any such contractor or sub-contractor to file in the office of the Minister, not later than the fifteenth day of each month, a list showing the names, rates of wages, amounts paid and amounts due and unpaid for wages or labour done by any foreman, workman, labourer or team employed by the contractor or sub-contractor during the previous month, and such list shall be attested upon the oath of the contractor or sub-contractor or his authorized agent.

4. (1) Every contractor or sub-contractor who makes default in forwarding such list shall incur a penalty of not less than \$10 or more than \$100 for every day during which default continues.

(2) The amount of such penalty, within the above limits, shall be determined by the Minister under whom the work is being executed, and may be deducted out of the money in the hands of the Crown deposited by or owing to such contractor and shall be vested in His Majesty.

5. Where default is made by a sub-contractor in furnishing such list the penalty for such default, hereinbefore provided, may also be recovered, with costs, at the suit of the Crown in any court of competent jurisdiction.

#### Subsidized Works.

6. (1) Where any subsidy, advance, loan or bonus of money is authorized by this Legislature to be granted to any company or person towards the construction of any railway or other work it shall, in the absence of special provision by this Legislature to the contrary, be a condition of the grant that so much of the money may be retained as the Lieutenant-Governor in Council may think proper to secure the payment of claims for wages of persons employed on such railway or work whether by such company or by any contractor or sub-contractor, or for sums due or to become due for labour of persons or teams so employed.

(2) If any such claim remains unpaid for thirty days after notice thereof has been served upon the Minister charged with the duty of seeing that the conditions upon which such aid is granted are duly carried out the Lieutenant-Governor in Council may, on being satisfied that such claim is due and unpaid, direct that it be paid together with all proper costs and charges in connection therewith out of any moneys so retained.

#### Works by Chartered Companies.

7. (1) Every company incorporated under any Act of this Legislature shall be liable for the payment of the wages of the foremen, workmen, labourers or teams employed in the construction of any work in Ontario done by or for the company, whether directly under the company or through the intervention of any contractor or sub-contractor.

(2) Nothing herein shall prejudice or affect the right of any person against any contractor or sub-contractor with whom he has contracted under any other Act or law in force in Ontario.

8. (1) Where any such foreman, workman or labourer is not paid his wages for himself or his team by any contractor or sub-contractor by whom he has been employed a notice stating the name of the claimant and the amount of wages claimed, the rate of such wages, the nature and amount of work done, the time when, the place where, and the name of the contractor or sub-contractor, superintendent or foreman under whom such work was done, may be served upon the company not later than two months after such wages are earned.

(2) The notice shall be followed up by the commencement of a suit in a court of competent jurisdiction for the collection of such wages within thirty days after the service of such notice, otherwise the liability mentioned in the last preceding section shall cease.

(3) The notice mentioned in subsection 1, and any summons, notice, order or other process required to be served upon the company for the prosecution of such claim, may be served upon the president, vice-president, secretary, managing director, super-



intendent, or engineer, or any recognized officer representing the company, or by leaving it with any adult person at the office or residence of any of them.

**Wages as Preferred Claims—In Assignments, Executions, etc.—Exemption of Wages from Attachment.**

Chapter 143.—1. This Act may be cited as The Wages Act.

2. In this Act,

"Wages" shall mean and include wages and salary whether the employment in respect of which the same is payable is by time or by the job or piece or otherwise.

3. Where an assignment is made for the general benefit of creditors of any real or personal property the assignee shall pay, in priority to the claims of the ordinary or general creditors of the assignor, the wages of all persons in the employment of the assignor at the time of the making of the assignment, or within one month before the making thereof, not exceeding three months' wages, and such persons shall rank as ordinary or general creditors for the residue, if any, of their claims.

(As to wages in case of winding up a company see The Ontario Companies Act, R.S.O., c. 178.)

4. All persons who, at the time of the seizure by the sheriff or who within one month previous thereto, have been in the employment of the execution debtor, and who shall become entitled to share in the distribution of money levied out of the property of a debtor within the meaning of "The Creditors' Relief Act" shall be entitled to be paid out of such money the wages due to them by the execution debtor, not exceeding three months' wages, in priority to the claims of the other creditors of the execution debtor, and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims.

5. All persons in the employment of an absconding debtor at the time of a seizure by the sheriff under "The Absconding Debtors' Act," or within one month previous thereto, shall be entitled to be paid by the sheriff, out of any moneys realized out of the property of the debtor, the wages due to them by the debtor, not exceeding three months' wages, in priority to the claims of the other creditors of the debtor, and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims.

6. In the administration of the estate of any person dying on or after the 13th day of April, 1897, any person in the employment of the deceased at the time of his death, or within one month previous thereto, who is entitled to share in the distribution of the estate, shall be entitled to his wages, not exceeding three months thereof, in priority to the claims of the ordinary or general creditors of the deceased, and such person shall be entitled to rank as an ordinary or general creditor of the deceased for the residue, if any, of his claim.

7. (1) No debt due or accruing due to a mechanic, workman, labourer, servant, clerk or employee, for or in respect of his wages, shall be liable to seizure or attachment unless such debt exceeds the sum of \$25, and then only to the extent of such excess.

(2) Nothing in this section shall apply to any case where the debt has been contracted for board or lodging, and, in the opinion of the judge before whom the matter is brought, the exemption of \$25 is not necessary for the support and maintenance of the debtor's family, or where the debtor is an unmarried person having no family depending on him for support, and the debt was contracted on or after the 23rd day of March, 1889.

8. (1) Wages in respect of which priority is herein conferred shall become due and be payable by the assignee, liquidator, sheriff, executor, administrator or other person charged with the duty of winding up or distributing the estate within one month from the time when the estate has been received by him or placed under his control, unless it appears to him that the estate is not of sufficient value to pay the claims or charges thereon having by law priority over the claims for wages and the ordinary expenses and disbursements of winding up and distributing the estate.

(2) Ordinary expenses shall not include the cost of litigation or other unusual expenses concerning the estate or any part thereof unless the same were incurred with the consent in writing of the person entitled to the wages or are afterwards adopted or ratified by him in writing.

(3) Any such assignee, liquidator, sheriff, executor, administrator or other person may forthwith, upon such estate coming to his hands, pay the prior claims for wages without being chargeable in case it shall in the end appear that the estate was insufficient to have justified such payment, provided he has acted in good faith and has reasonable grounds to believe that the estate would prove sufficient.

(4) Any number of claimants in respect of such prior claims for wages upon the same estate may join in any action, suit or other proceeding for the enforcement of their claims.

(As to wages payable to employees of contractors for public works, see The Public and other Works Wages Act, R.S.O., c. 142).

**Employment of Labour—General Provisions.**

Chapter 144 with amendment.—1. This Act may be cited as The Master and Servant Act.

**Limit of Duration of Contract.**

2. No voluntary contract of service or indenture entered into by any persons shall be binding on them, or either of them, for a longer time than a term of nine years from the date thereof.

**Profit-sharing Agreement.**

3. (1) An agreement entered into by a workman, servant or employee and his master or employer under which a share of the profits of any trade, calling, business or employment is to be paid to the workman, servant or employee in lieu of or in addition to salary, wages or other remuneration unless the agreement otherwise provides or a contrary intention may be reasonably inferred therefrom shall not

(a) create any relation in the nature of a partnership or the rights or liabilities of partners, or

(b) give to the workman, servant or employee the right to examine into the accounts or interfere in the management or affairs of the trade, calling or business.

(2) Any statement or return by the employer of the net profits of the trade, calling, business or employment on which he declares and appropriates the share of profits payable under such agreement shall be final and conclusive between the parties and all persons claiming under them, and shall not be impeachable upon any ground whatever, except fraud.

**Complaints for Non-Payment of Wages.**

4. (1) Upon the complaint upon oath of a servant or labourer against his master or employer concerning any non-payment of wages a Justice of the Peace may summon the master or employer to appear before him at a reasonable time to be stated in the summons, and he or some other Justice upon proof on oath of the personal service of the summons, or of its service as hereinafter authorized, shall examine into the matter of the complaint, whether or not the master or employer appears, and upon due proof of the cause of complaint the Justice may discharge the servant or labourer from the service or employment of the master or employer, and may direct the payment to him of any wages found to be due, not exceeding in the provisional judicial districts the sum of \$80 and in counties the sum of \$40, and the Justice shall make such order as to him seems just and reasonable for the payment of such wages, with costs, and in case of the non-payment of the same, together with the costs, for the space of eight days after the order has been made the Justice shall issue his warrant of distress for the levying of the wages, together with the costs of the order and of the distress. 1914, c. 21, s. 32.

(2) A complaint may be prosecuted and determined in any county or district in which the person complained against is found, or in any county or district in which the person complained against carries on business.

(3) Proceedings may be taken under this Act, within one month after the engagement or employment has ceased, or within one month after the last instalment of wages under the agreement of hiring has become due, whichever shall last happen.

(4) Proceedings may be had for non-payment of wages in respect of service or labour performed in Ontario upon a verbal or written agreement or bargain made out of Ontario.

(5) Where the master or employer claims a set-off or makes a claim for unliquidated damages the Justice of the Peace shall investigate the same and give judgment for the balance of wages, if any, due to the claimant after deducting such set-off or claim.

(6) The Justice of the Peace shall not have jurisdiction to adjudicate upon a set-off or claim exceeding the claim for wages except to the extent of the wages.

5. Where the proceedings are taken before a Police Magistrate, and payment of wages is ordered by him to be made by the master or employer to the servant or labourer, and the same are not paid within the time limited by the order, the same proceedings may be taken by the person claiming the benefit of the order as may be taken by a party having an unsatisfied judgment or order in a Division Court for the payment of any debt, damages or costs, as respects the examination of the judgment debtor touching his estate and effects, the means he has of discharging his liability, and the disposal he has made of any property, and the Police Magistrate shall have the like power and authority to enforce payment of the debt as are possessed by a judge of a Division Court in like cases; and the practice and proceedings thereon shall be the same as nearly as may be and have the same effect as provided in The Division Courts Act with respect to judgment debtors.

6. Subject to the provisions of section 7 the Police Magistrate may name in the order for payment of wages such time, not exceeding 21 days, as to him may seem just and reasonable for the payment of the same and costs, and in case of non-payment within such time the complainant shall be entitled to take forthwith the proceedings for enforcing payment herein provided.

7. (1) In the case of wages due to any mechanic, labourer or other person in respect of work of the character mentioned in section 6 of "The Mechanics' and Wage Earners' Lien Act" the jurisdiction of a Police Magistrate of a city under this Act shall extend to wages for thirty days, or for a balance equal to the wages for thirty days, though the same or the balance thereof exceed the sum of \$40.

(2) Where no specific rate of wages has been expressly agreed to between the parties the Police Magistrate of a city may order payment of the wages, reckoning the amount thereof according to the current rate of wages in the city in like cases, or according to what may appear to be a just and reasonable allowance.

(3) The order shall direct payment of the wages to be made forthwith, and a warrant of distress shall be issued accordingly, unless the master makes oath, and the Police Magistrate believes, that the master is unable to make the payment forthwith, and expects to be able to pay and intends to pay the same within the time given, and unless also the Police Magistrate considers the proposed delay to be under the circumstances reasonable, and the Magistrate, if he sees fit, may order security to be given as a condition of delay.

(4) In case of an adjournment at the instance of the master the same shall be on payment for the claimant's time in attending the court, the amount to be fixed by the Police Magistrate, and such payment shall be made forthwith unless the Police Magistrate sees reason for dispensing with immediate payment.

(5) The order for payment may be filed in that Division Court which would be the proper court for bringing an action for wages, and on such filing the order shall become a judgment of such Division Court and may be enforced as a judgment of that court.

#### Service of Summons.

8. (1) Every summons issued under this Act against an individual, firm or corporation, and every subsequent paper or proceeding in the action or proceeding in which the summons has been issued may be served, except in the cases provided for by subsection (2), upon the person to whom it is directed either by delivering it to him personally or, if he cannot conveniently be found, by leaving the same for him at any place where such individual, firm or corporation carries on business, within the county or district in which the Justice of the Peace issuing the summons has jurisdiction, with some adult person employed in the office or place of business of such person.

(2) In cases against railway, telegraph, telephone or express companies every such summons and other papers may be served on any agent of the company whose office or place of business as such agent is within such county or district; and for the purposes of this section the word "agent" shall include—

(a) in the case of a railway company, a station master having charge of a station belonging to the company;

(b) in the case of a telegraph company, a person having charge of a telegraph office belonging to the company;

(c) in the case of a telephone company, a person having charge of a telephone office belonging to the company; and

(d) in the case of an express company, a person having charge of an express office belonging to the company.

(3) Service as authorized by this section shall have the same effect as personal service.

#### Appeals.

9. (1) An appeal from an order for the payment of wages, or order of dismissal from service or employment, or against any decision of any Justice of the Peace or Police Magistrate under this Act shall be made to the Division Court of the division in which the cause of action arose or in which the party or parties complained against, or one of them, resided at the time of the making of the complaint, or to the Division Court holden in the division in which the party or parties complained against or one of them carried on business, and in case of dismissal of the appeal or affirmance of the order or decision, the Court appealed to shall enforce the order for payment of wages or of dismissal, and for the payment of the costs awarded, and shall, if necessary, issue process for carrying such judgment into effect.

(2) The appeal shall be taken within the time and in the manner provided by "The Ontario Summary Convictions Act" as to appeals to a Division Court, and

the proceedings upon and incidental to the appeal and subsequent thereto shall, except as provided by subsection 1 and by section 10, be the same as in the case of an appeal under "The Ontario Summary Convictions Act."

10. (1) The appeal may be tried with a jury if the appellant files with the clerk of the court within ten days after the order or decision a notice requiring a jury, or if the respondent within four days after the service of the notice of appeal upon him files a notice with the clerk requiring a jury, and if the proper fees are in either case deposited with the clerk; otherwise the Judge may try the appeal without a jury or may summon a jury from the body of the court as to him seems meet.

(2) Upon the application of either party when a jury is not required the Judge may try the appeal at such time and place as he may appoint, and upon such notice as to him seems reasonable.

#### Agreements Waiving Act.

11. (1) Every agreement or bargain, verbal or written, expressed or implied, on the part of any workman, servant, labourer, mechanic, or other person employed in any kind of manual labour intended to be dealt with in this Act whereby it is agreed that this Act shall not be available for the benefit of any person entering into such agreement, is hereby declared to be null and void and of no effect as against any such workman, servant, labourer, mechanic, or other person.

(2) This section shall not apply to any manager, officer or foreman or to any other person whose wages are more than \$5 a day.

#### Industrial Disputes—Arbitration and Conciliation.

Chapter 145.—1. This Act may be cited as The Trade Disputes Act.

2. In this Act,

(a) "Employer" shall mean and include any person or body of persons, incorporated or unincorporated, employing not less than ten workmen in the business in which the trade dispute has arisen;

(b) "Employees" shall mean and include a person or persons in the employment of an employer.

3. (1) A claim or dispute under this Act shall include any disagreement between an employer and his employees in respect of—

(a) the price to be paid for work done, or in course of being done, whether such disagreement shall have arisen with respect to wages, or to the hours or times of working;

(b) damage alleged to have been done to work, delay in finishing the same, not finishing the same in a good and workmanlike manner or according to agreement;

(c) materials supplied to employees and alleged to be bad, or unfit, or unsuitable;

(d) the price to be paid for mining any mineral or substance mined, or obtained by mining, hewing, quarrying or other process; or the allowances, if any, to be made for bands, refuse, faults or other causes whereby the mining of the mineral substance is impeded;

(e) the performance or non-performance of any stipulation or matter alleged to have been in an agreement, whether in writing or not;

(f) insufficient or unwholesome food supplied to employees where there is an agreement to victual them, or to supply them with provisions or stores of any kind;

(g) ill-ventilated or dangerous workings or places in mines, or unwholesome or insanitary rooms or other places of accommodation in which work is being performed, or want of necessary conveniences in connection with such rooms or places;

(h) the dismissal or employment under agreement of employees; or

(i) the dismissal of employees for their connection with any trade or labour organization.

(2) No claim or dispute shall be the subject of conciliation or arbitration in any case in which the employees affected by such claim or dispute are fewer in number than ten.

4. (1) The Lieutenant-Governor in Council may appoint a Registrar of Councils of Conciliation and of Arbitration for the settlement of industrial disputes.

(2) Such office shall be assigned to some person performing other duties in the public service, unless and until the duties are so onerous as to require a separate appointment.

(3) It shall be the duty of the Registrar to receive and register and, subject to the provisions of this Act, to deal with all applications by employers or employees for reference to a Council of Conciliation or to the Council of Arbitration of any claim or dispute within the meaning of this Act; to convene such councils for the purpose of dealing with any claim or dispute, to keep a register in which shall be entered the particulars of all references and settlements of claims and disputes made to and by a Council of Conciliation, and of all references and awards made to and by the Council

of Arbitration; and generally to do all such things and take all such proceedings as may be required in the performance of his duties under this Act or the regulations made in pursuance thereof.

(4) The Registrar shall issue all summonses, Form 15, to witnesses to attend to give evidence, with or without the production of papers and documents, and shall issue all notices and perform all other acts in connection with the sittings of each such council in the prescribed manner.

(5) If any difference shall arise between any employer and his employees likely to result or resulting in a strike on the part of such employees, or a lockout on the part of the employer, it shall be the duty of the Registrar, when requested in writing to do so by five or more of the employees, or by the employer, or by the head of the municipality in which the industry is situated, to visit the place of such disturbance and diligently seek to mediate between the employer and employees.

(6) It shall be the duty of the registrar to promote conditions favourable to a settlement by endeavouring to allay distrust, to remove causes of friction, to promote good feeling, to restore confidence, and to encourage the parties to come together and themselves effect a settlement, and also to promote agreements between employers and employees with a view to the submission of differences to conciliation or arbitration before resorting to a strike or lock-out.

#### Council of Conciliation.

5. (1) A Council of Conciliation for the purpose of any dispute or claim shall consist of four conciliators, two to be nominated by each of the parties to the dispute.

(2) The nomination shall be by writing lodged with the Registrar.

(3) Either party may lodge the nomination papers with the Registrar at any time after the dispute has arisen; and if the Registrar has not already received a nomination of two conciliators on behalf of the other party he shall give notice to such other party of the nomination which he has received.

(4) Any vacancy in a Council of Conciliation arising through the death, resignation, or otherwise of any member thereof shall be filled in the same way as the appointment was first made, namely, on the nomination of the party whose conciliator has ceased to be a member of the Council.

#### Procedure for Conciliation.

6. A claim or dispute within the meaning of this Act may be referred for settlement to a Council of Conciliation where—

(a) the parties to the claim or dispute jointly agree in the prescribed manner, Form 2, to refer such claim or dispute for settlement to a Council of Conciliation, or,

(b) either party to the claim or dispute, in the prescribed manner, lodges an application, Form 3, with the Registrar requesting that the claim or dispute be referred for settlement to a Council of Conciliation.

7. The Registrar, on receipt of any such agreement or application for a reference to a Council of Conciliation, shall forthwith lay the same before the Council; and, subject to the provisions of this Act and the regulations, shall carry out all directions of the said Council given in the endeavour of the Council to effect a settlement of the claim or dispute.

8. Either party to the claim or dispute may, for the purposes of this Act, be represented by one or more persons, not exceeding three, authorized by such party as managers in that behalf; and such party shall be bound by the acts of such managers.

9. Where the party numbers fewer than twenty the managers must be authorized in writing, Form 4, signed by the members of the party to act for and on their behalf.

10. (1) Where the party numbers twenty or more the managers may be appointed or elected in such manner as the members of the party think proper.

(2) A copy of the resolution electing the managers, together with a declaration by the chairman or president of the meeting stating it to have been carried, shall be kept as a record of the election.

11. (1) The parties to the claim or dispute shall, if possible, agree to a joint written statement of their case; but if they do not so agree a statement in writing from each party shall be made.

(2) The statement or statements shall be forwarded to the Registrar before the meeting of the Council.

12. When the parties to a claim or dispute have named their conciliators the Registrar shall by notice in writing, Form 5, convene a meeting of the conciliators at a time and place mentioned in the notice, the same being selected with due regard to the general convenience of the conciliators and the parties.

13. (1) The Council shall transmit to the Registrar a report, Forms 6 and 7, setting forth the result of the reference.

(2) In case such report is to the effect that the Council has failed to bring about any settlement or adjustment of the claim or dispute the Registrar, on the receipt of the report, shall transmit a certified copy to each party to the claim or dispute; whereupon either party may, by notice in writing, Forms 8 and 9, require the Registrar to refer the claim or dispute to the Council of Arbitration for settlement, Form 10.

#### The Councils of Arbitration.

14. (1) There shall be two Councils of Arbitration,

(a) A Council of Arbitration for the settlement by award in respect of claims and disputes between railway companies, including street railway companies, and wage-earners employed in respect of railway construction or traffic on railways; and

(b) A Council of Arbitration in respect of other claims and disputes.

(2) Each council shall consist of three members, one to be appointed by the Lieutenant-Governor on the recommendation of the employees, and one to be appointed by him on the recommendation of the employer.

(3) The third member of each Council shall be the president of the Council and shall be appointed in manner following, namely: The two members appointed shall within twenty-one days after their appointment submit, Form 1, to the Lieutenant-Governor the name of some impartial person to be appointed by him to the position of President.

(4) In case of the said two members failing so to do the Lieutenant-Governor may appoint as President an impartial person not personally connected with or interested in any trade or industry, or in the judgment of the Lieutenant-Governor likely, by reason of his former occupation, business vocation or other influence, to be biased in favour of or against employers or employees.

(5) The same person may be President of both Councils.

(6) As soon as practicable after a full Council has been appointed by the Lieutenant-Governor notice of the appointment and the names of the members of the Council shall be published by the Registrar in the Ontario Gazette.

(7) The Lieutenant-Governor may cancel the appointment of any member on the recommendation of the authority by which his appointment was recommended.

(8) The term of office of a member shall be two years; and at the end of every term of two years a fresh appointment of members shall be made in manner aforesaid.

(9) Every member after the expiry or other termination of his term of office shall be eligible for reappointment for a like term.

(10) If the President of a Council shall be declared a bankrupt or insolvent, or shall make a composition with his creditors, or shall make an assignment of his property or salary for the benefit of his creditors, or if any member of either Council shall be convicted of any criminal offence, such President or member respectively shall thereby vacate his office of member.

(11) Any vacancy in a Council arising from death, resignation or other cause shall be filled by the Lieutenant-Governor for the term of office, or the residue of such term, as the case may be, in accordance with the respective methods prescribed by this Act.

(12) In case the President of a Council is unable to act as such from illness, absence from the province, or other temporary cause the Lieutenant Governor may appoint a person to be acting President of the Council in his place; and such acting President shall have all the powers and perform all the duties conferred by this Act upon the President.

(13) If any member of a Council, other than the President, is, from illness or from any other disability howsoever arising, unable to perform the duties of his office in respect to any claim or dispute then pending the parties thereto may consent, in writing under their respective hands, to the appointment by the Lieutenant-Governor of a member named in such writing to act for and in the place of the member during such disability; and if either of the parties refuse such consent the Judge of the County or District Court of the county or district in which the matter is situate with respect to which the claim or dispute has arisen may, on notice to the parties of the application to him, make the nomination; and the Lieutenant-Governor may appoint the person so nominated, who shall thereupon be deemed a member of such Council for all the purposes relating to such claim or dispute and to the hearing and determination thereof.

(14) Where a dispute has been referred to either Council of Arbitration the members of the Council of Conciliation may, with the consent in writing, Form 13, of both parties to the claim or dispute, sit as assessors upon the reference to the Council of Arbitration; but no such assessor shall take any part in the reference except as an assessor sitting to inform the Council of Arbitration when called upon to do so.

(15) The members of each Council of Arbitration shall be remunerated for their services in such manner and according to such rate of payment as the Lieutenant-Governor in Council shall appoint, but subject to legislative provision being made therefor.



15. The following may be the method of ascertaining the recommendation of employer and employees as to the persons to be appointed on their recommendation respectively as members of the Council of Arbitration.

(a) For the person to be recommended by the employer every employer in Ontario shall be entitled to one vote; every organization in Ontario, whether incorporated or unincorporated, representing the interests of employers, each member of which has at least ten persons in his employment, shall be entitled to one vote;

(b) Every Board of Trade in Ontario legally constituted shall be entitled to one vote for a representative of the employer in each Council;

(c) For the person to be recommended by employees as a member of the Council in matters not relating to railway companies, every trades and labour council, every district assembly of the Knights of Labour, every federated council of building trades, every lawfully incorporated trades union, every organization of wage-earners of an industrial calling primarily constituted for, and actually and *bona fide* operated for the regulation of the wages and hours of labour as between employers and employed, shall be entitled to one vote; but this shall not be deemed to include co-operative associations or societies formed under chapter 202 of the Revised Statutes of Ontario, 1897;

(d) For choosing the person to be recommended by employees of railway companies as a member of the Council in matters relating to railways, every organization in Ontario, whether incorporated or unincorporated, exclusively representing the interest of wage-earners employed in respect of railway construction or traffic on railways shall be entitled to one vote; but this shall not be deemed to include co-operative associations or societies;

(e) The Registrar shall give notice in the Ontario Gazette calling on all organizations and persons entitled to vote for a member to be recommended to either Council, or claiming to be so entitled, to communicate with him on or before the 1st day of August, of every second year reckoned from 1910; and such notice shall be inserted for at least four weeks before that day in every such year;

(f) The Registrar shall forthwith, after such first day of August, prepare a list of the persons and organizations appearing to be entitled to vote for a person to be recommended for appointment to each of the said Councils respectively, and may refer any doubtful claim to the Minister of Public Works for his advice or direction;

(g) Each list so to be prepared shall give the last known post office address of every person and organization entitled to vote as employers and employees respectively for the said Councils respectively, and shall be published in the Ontario Gazette, and shall be open to inspection at any time by any person without fee, in the office of the Registrar during office hours;

(h) Between the 1st and 30th days of September of every second year reckoned from 1910 the Registrar shall transmit by registered post to the address of each person and organization entitled to vote a voting paper, Form 16.

(i) The voting paper of any person entitled to vote under this Act as an employer shall be signed by himself or some person duly authorized in writing in that behalf, and the voting paper of any organization entitled to vote shall be signed by the president or vice-president of the organization, or, in the absence of such president or vice-president, by any office bearer of the organization other than the secretary thereof, and shall be countersigned by the secretary or acting secretary, or, in the absence of such secretary or acting secretary, by any two members not being office bearers; and the voting papers of a Board of Trade shall be under the corporate seal of the Board;

(j) The voting paper shall be forwarded in a stamped envelope, addressed to the Registrar of Councils of Conciliation and Arbitration, Toronto, and endorsed, "Voting paper under The Trade Disputes Act."

(k) Every voting paper shall be forwarded by mail or otherwise to the Registrar so as to be received by him on or before the 15th day of October of the year in which the voting is to be held, and any voting paper received by the Registrar after the said date shall have no effect or validity;

(l) The Registrar shall forthwith, after the said 15th day of October, count the recommendations as well by or on behalf of employees, as by or on behalf of employers for each Council, and shall forward the same to the Minister of Public Works, together with the Registrar's report thereon; and the Minister of Public Works, upon being satisfied of the accuracy of such report, shall publish in the Ontario Gazette the result of such recommendations, and the names of the persons appointed by the Lieutenant-Governor upon such recommendations to be members of the Councils of Arbitration; and also the names of, and number of votes given for the five persons who have received the greater number of votes for each Council on behalf of employers and employees respectively;

(m) In case either employers or employees, or both, fail to recommend any person to represent them on either or both the Councils, as provided for in this section, the Lieutenant-Governor in Council may appoint a person or persons to fill the vacancy or vacancies.



Procedure For Arbitration.

16. (1) Any dispute or claim within the meaning of this Act may be referred to the appropriate Council of Arbitration for its hearing and determination in any of the following cases:—

(a) On application, Form 9, to the Registrar by either party to a claim or dispute which, having been referred to a Council of Conciliation, has not been settled or adjusted by such Council;

(b) On application, Form 8, to the Registrar by both parties to a claim or dispute, which has not been so referred to a Council of Conciliation.

Provided that if in either case the award of the Council of Arbitration is not complied with or carried out by the parties, or for any reason proves abortive, the parties to the reference, or either of them, shall not thereby be precluded from referring the dispute to a Council of Conciliation or from making a second reference to the Council of Conciliation where a former reference has already been made to it.

(2) If in case of a claim or dispute, within the meaning of this Act, one party has lodged an application with the Registrar requesting that the dispute or claim be referred to a Council of Conciliation, and appointing two conciliators for the purpose, and notice of the application and of the appointment of conciliators has been duly given to the other party, and such other party has not within a reasonable period appointed conciliators, and the party lodging the application has not proceeded to a strike or lock-out, as the case may be, the Council of Arbitration, if it thinks fit, may proceed as in case of an abortive reference to a Council of Conciliation, and such Council may report their decision as to the proper settlement of the dispute in question and also in case the Council thinks proper, a concise statement as to the origin of the dispute, and the causes inducing the same, and what parties, if any, are in the opinion of the Council mainly responsible for the same.

(3) The mayor of any city or town, upon being notified that a strike or lock-out is threatened or has actually occurred within the municipality, shall at once notify the Registrar thereof by writing, stating the name of the employer, the nature of the dispute, and the number of employees involved as far as his information will enable him so to do.

(4) It shall be the duty of each of the Councils of Arbitration, upon being notified, or on being otherwise made aware, that a strike or a lock-out has occurred or is threatened, to place itself, as soon as practicable, in communication with the parties concerned and to endeavour by mediation to effect an amicable settlement, and if in the judgment of the Council it is deemed best to enquire into the cause or causes of the controversy it shall proceed as in the case of a reference.

17. In every case referred to a Council of Arbitration, or in which the Council has determined to act under the preceding section of this Act, the Council shall have power to require either or each party to the claim or dispute to name not more than three persons, who, upon their consent in writing, Form 14, shall for all purposes of the reference be taken to represent such party.

18. (1) The Council shall sit and conduct its proceedings as in open court, and in making its decision shall be governed by the principles of equity and good conscience.

(2) The President shall, for the purpose of preserving order during any sitting of the Council, have all the powers of a Judge of the Supreme Court, except the power of committing for contempt.

19. Any two members of the Council of Arbitration shall constitute a quorum for the transaction of business, and may hold meetings at any time and any place within Ontario.

20. The Council of Arbitration may order that an examination or investigation shall be held before any one member of the Council, but such member shall report upon such examination or investigation to the Council, and the decision of such member shall not be considered binding until approved by the Council or a majority thereof.

21. (1) The report or award, Form 11, of the Council of Arbitration shall be made within one month after the Council has completed its sittings for the hearing of the reference, and shall be by and under the hands of a majority of the members of the Council.

(2) At the request of either party, and if the Council approves, a copy of the report or award shall be published by the Registrar in The Ontario Gazette.

(3) The report or award, or a copy, certified under the hand of the President of the Council, shall be deposited in the office of the Registrar and shall be open to inspection without charge during office hours.

22. (1) Either party to a reference to either Council of Arbitration, at any time before award made, may by writing under the hands of such party, Form 12, agree to be bound by the award of the Council upon the reference in the same manner as parties are bound upon an award made pursuant to an ordinary submission in writing to arbitration under The Arbitration Act.

(2) Every such agreement made by one party shall be communicated by the Registrar to the other party, and if such other party also agrees in like manner to be bound then the award may, on the application of either party, be enforced in the same manner as an award on ordinary submission in writing to arbitration may be enforced under the said Act.

#### Miscellaneous Provisions.

23. The Councils of Conciliation and Arbitration shall have power—

(a) to visit the locality where the trade dispute has arisen and to hear all persons interested who may come before them;

(b) to summon, Form 15, any person to attend as a witness before the Council, and in the case of any person so summoned refusing to attend after payment or tender of his proper fees application may be made in a summary way to a Justice of the Peace having jurisdiction in the city, town or county wherein the council may be sitting for an order compelling such attendance; and such Justice of the Peace may make such order as might be made in any case wherein such Justice has power to compel appearance before him in pursuance of The Ontario Summary Convictions Act, and

(c) to administer an oath to any person attending as a witness before the Council and to examine any such person on oath or affirmation.

24. No party to any proceeding either before a Council of Conciliation or a Council of Arbitration shall be represented by counsel or solicitor or by any paid agent other than one or more of the persons between whom the claim or dispute has arisen.

25. No fees shall be paid to the Registrar by any party in respect of any proceeding under this Act.

26. Every member of a Council of Conciliation, while engaged in adjustment of any dispute, shall be remunerated for his services as follows:—

|                            |        |
|----------------------------|--------|
| Preliminary meetings ..... | \$3.00 |
| Wholeday sittings .....    | \$4.00 |
| Half-day sittings .....    | \$2.00 |

out of any funds which may be appropriated by this Legislature for that purpose.

27. Witnesses shall be entitled to the same fees as in a Division Court.

28. (1) The Lieutenant-Governor may make regulations for the purpose of giving effect to any of the provisions or requirements of this Act, and all such regulations not being inconsistent with this Act shall have the full effect of law on publication in the Ontario Gazette.

(2) Such regulations shall be laid before the Assembly within fourteen days after being published in the Ontario Gazette if the Legislature is in session, and if it is not in session then within the first fifteen days of the ensuing session.

29. No proceeding under this Act shall be deemed invalid by reason of any defect of form, or any technical irregularity.

(Forms omitted.)

#### Apprenticeship.

Chapter 147.—1. This Act may be cited as The Apprentices and Minors' Act.

#### Interpretation.

2. In this Act,

(a) "County" shall include district.

(b) "County Court" shall include District Court.

(c) "Master" shall include any person or number of persons, male or female, carrying on business, singly or in partnership, and a body corporate.

5. Where a minor over the age of sixteen years who has no parent or guardian, or who does not reside with him, enters into an engagement, written or verbal, to perform any service or work he shall be liable upon, and shall have the benefit of the same, as if he had been of full age.

6. A parent, guardian or other person having the care or charge of a minor, or any charitable society authorized by the Lieutenant-Governor in Council to exercise the powers conferred by this Act, and having the care of charge of a minor, who is a male and not under the age of fourteen years, may with his consent bind him as an apprentice by agreement in writing to any respectable and trustworthy master-mechanic, farmer, or other person carrying on a trade or calling, for a term not to extend beyond the minority of the apprentice; or in the case of a female not under the age of twelve years, may, with her consent, bind her to any respectable and trustworthy person carrying on any trade or calling, or to domestic service with any respectable and trustworthy person for any term not to extend beyond the time when she attains the age of eighteen years.

7. Where the father of a minor abandons and leaves him with the mother, the mother, with the approbation of two justices of the peace of the county or city in which she resides, may bind the child as an apprentice to any of the persons mentioned in the next preceding section, until the minor attains the age of twenty-one years in the case of a male and eighteen years in the case of a female; and an agreement in writing to that effect under the hand and seal of the mother and countersigned by such justices shall be valid; but no minor who has attained the age of fourteen years shall be so apprenticed unless he or she consents.

8. In a city or town the mayor, a Judge of the County Court or a police magistrate, and in a county a Judge of the County Court may bind for the like period to any of the persons referred to in section 6, with the consent of such person and of the minor, or if the minor is a male under the age of fourteen years or a female under the age of twelve years then without the consent of the minor, any minor who is an orphan or has been deserted by his parents or guardian, or whose parents or guardian have been committed to and are confined in a common gaol or house of correction, or any minor who is dependent upon public charity for support; and such apprentice and his master shall be held in the same manner as if the apprentice had been bound by his parent.

9. All wages agreed by an indenture or otherwise to be paid for the service of a minor, shall, if not payable to the parent, be either payable to the minor or to some person for his benefit.

10. If the master of an apprentice dies, the apprentice, if a male, shall by operation of law be transferred to the person, if any, who continued the establishment or business of the deceased master; and such person shall hold the apprentice upon the same terms as the master, if alive, would have done.

11. A master may, with the consent of his apprentice, transfer him to any person who is competent to receive or take an apprentice and who carries on the same kind of business.

12. Every master shall provide his apprentice during the term of his apprenticeship with suitable board, lodging and clothing, or such equivalent therefor as is mentioned in the agreement, and with medical attendance, and shall also properly teach and instruct him, or cause him to be taught and instructed in his trade or calling.

13. Every apprentice shall, during the term of his apprenticeship, faithfully serve his master, and obey all his lawful and reasonable commands, and shall not absent himself from his service, day or night, without his consent.

#### Complaints.

14. (1) A Judge of the County Court or a police magistrate having jurisdiction within the county or city in which the master resides, upon complaint made by a minor bound under the provisions of this Act, or by any person on his behalf, or by the person to whom an apprentice is bound, may alter the mode in which payment of wages is to be made, by directing payment to the apprentice or to some other person, in lieu of the manner provided in the agreement; or may upon proof of gross misconduct or neglect of duty annul the agreement of apprenticeship or of service, and may compel the person in whose possession, power, custody or control the agreement is to produce and deliver the same in Court in order to have it cancelled, or to have the order varying it endorsed thereon, as the case may require.

(2) The Judge or police magistrate may, after allowing a reasonable time for production and delivery of the agreement, issue a warrant for the imprisonment of the person in default for any term not exceeding six months unless it is sooner produced and delivered.

15. A Judge of the County Court or a police magistrate having jurisdiction in the county or city in which the guardian resides, upon complaint of any minor over whom a person has been appointed guardian under section 3, or of any person on behalf of the minor, and upon proof of gross misconduct or neglect of duty on the part of the guardian may emancipate the minor from his authority.

16. A Judge of the County Court in any case, and a police magistrate in case the apprenticing of a minor or the appointment of a guardian under this Act has not been by the parent of the minor, such Judge or police magistrate having jurisdiction in the county or city in which the master or guardian resides may, on the application of either the parent or the minor, cancel the agreement of apprenticeship or service if satisfied that the same was injudiciously or improperly entered into; or cancel the appointment of the guardian, and restore the minor to the parent, if satisfied that the parent is a fit and proper person to take charge of him; and when such cancellation of the guardianship is on the application of the parent his authority shall revive.

17. Where an apprentice absents himself from his master's service or employment before the expiration of his apprenticeship, he may at any time, if found in Ontario, be compelled to serve his master for so long a time as he so absented himself unless he makes satisfaction to his master for the loss sustained by his absence.

18. (1) If the apprentice refuses to serve or to make satisfaction to his master as provided by the next preceding section, or to obey the lawful commands of his master, or in any other way refuses or neglects to perform his duty to his master, and if the master, or his overseer or agent, complains on oath to a justice of the peace, either in the county, city or town where the master resides, or in any county, city or town where the apprentice is found, the justice may cause the apprentice to be summoned to appear or to be apprehended and brought before him, or before some other justice of the peace, and the justice, upon hearing the complaint, shall determine what satisfaction shall be made by the apprentice to the master.

(2) If the apprentice does not give or make such satisfaction immediately, or, where the satisfaction is of such a nature as not to admit of immediate performance, if he does not give sufficient security to make such satisfaction, the justice may commit the apprentice to the common gaol or house of correction of the county, city or town for any period not exceeding three months; and such imprisonment shall not release the apprentice from the obligation to make up the lost time to the master.

19. Where the apprentice has not left Ontario or, having left Ontario, has returned thereto, the master shall not proceed against the apprentice under this Act after one year next from the expiration of the terms for which the apprentice contracted to serve, or from his return, as the case may be.

20. Any person who knowingly harbours or employs an absconding apprentice shall pay to his master the full value of the apprentice's labour; and such value shall be what the master would have received from the labour and service of the apprentice if he had continued faithfully in his master's service; and the master may recover the same in any court having jurisdiction where the apprentice has been employed or where the master resides.

21. Where an apprentice becomes insane, or is convicted of an indictable offence, or is sentenced to the Ontario Reformatory, a reformatory or the penitentiary, or is sent to an industrial school, or absconds, his master may, within one month thereafter, but not afterwards, avoid the agreement of apprenticeship or service from the time he gives notice in writing of his intention to do so to the other parties to the agreement, either by serving them with the notice or by inserting it in the Ontario Gazette or in a newspaper published in the county or city where the master resides.

22. The Court of General Sessions of the Peace shall have concurrent primary jurisdiction over offences against this Act, and shall also have authority to make any order which under this Act may be made by a Judge of a County Court.

23. The Court of General Sessions of the Peace, Judge, police magistrate or justice may, on any complaint or other proceeding under this Act, make such order as to payment of costs as may appear just.

24. All fines imposed and collected under this Act shall be paid to the treasurer of the county or city in which the offence was committed.

#### Appeals.

25. Either party may, except as to matters provided for in the next following section, appeal from any decision of a justice or police magistrate, under this Act, as is provided by The Ontario Summary Convictions Act in the case of a summary conviction.

26. (1) An appeal shall lie to a Judge of the Supreme Court in Chambers from any order or decision of a Court of General Sessions of the Peace or of a Judge of the County Court or of a police magistrate, cancelling or varying or refusing to cancel or vary an agreement of apprenticeship or service, or cancelling or refusing to cancel the appointment of a guardian.

(2) The appeal shall be by notice of motion which shall be served upon the opposite party within ten days from the day upon which the order or decision was made, unless a Judge of the Supreme Court or the Master in Chambers allows further time; and the motion shall be returnable upon the first chamber day after the tenth day from the day of service of the notice.

(3) The Judge or Master in Chambers in granting further time may impose such terms as to further evidence, costs and otherwise as he sees fit.

(4) The Judge, upon consideration of the evidence taken upon the hearing, a certified copy whereof shall be produced before him, and such further evidence, if any, may make such order in the premises, and as to costs and otherwise, as he may deem just, and before adjudicating upon the appeal, he may, upon such terms as he may deem just, permit further evidence, either written or oral, to be adduced.

#### Powers of Charitable Societies.

27. The Lieutenant-Governor in Council may authorize any charitable society, incorporated or unincorporated, to exercise for a limited time or otherwise the powers conferred by this Act, and may revoke or suspend any Order in Council made for that purpose.

**Earnings of Married Women.**

Chapter 149.—7. (1) Every married woman, whether married before or after the passing of this Act, shall have and hold as her separate property, and may dispose of as such, the wages, earnings, money and property gained or acquired by her in any employment, trade or occupation in which she is engaged or which she carries on and in which her husband has no proprietary interest, or gained or acquired by her by the exercise of any literary, artistic or scientific skill.

(2) Every woman married on or after the first day of July, 1884, shall also be entitled to have and hold and to dispose of as her separate property all other real and personal property belonging to her at the time of marriage or acquired by devolving upon her after marriage.

8. Every woman married before the first day of July, 1884, shall be entitled to have and hold and to dispose of in manner aforesaid as her separate property all real and personal property her title to which, whether vested or contingent, and whether in possession, reversion or remainder, shall accrue on or after the said first day of July, including any wages, earnings, money and property so gained or acquired by her as aforesaid.

**Examination and Licensing of Stationary and Hoisting Engineers.**

Chapter 170, with amendments.—1. This Act may be cited as The Stationary and Hoisting Engineers' Act. 1914, c. 28, s. 1.

2. In this Act,

(a) "Board" shall mean the Board of Examiners appointed as hereinafter provided;

(b) "Minister" shall mean Minister of Agriculture;

(c) "Steam plant" shall mean and include a steam boiler and a steam engine and every part thereof and thing connected therewith or used with reference to any such boiler or engine or under the care of an engineer.

(d) "Hoisting plant" shall mean and include a steam boiler, a boiler and steam engine, and every part thereof, working at a pressure of 20 pounds or over irrespective of horse power, and used for hoisting in structural operations or excavating purposes. 1914, c. 28, s. 2.

3. Nothing in this Act shall apply to the operation of any steam plant having a capacity of less than fifty horse power, nor to steam heating plants operating at a pressure of twenty pounds or under, nor to the operation of a locomotive engine or a steamboat or steamship engine or a hoist at a mine or quarry nor to boilers used for agricultural purposes. 1914, c. 28, s. 3.

4. The Lieutenant-Governor in Council may appoint a Board of Examiners consisting of three competent and independent engineers practically conversant with the construction of boilers and the operation of steam plants, who shall hold office during pleasure and who, subject to the regulations mentioned in the next following section shall prescribe the subjects in which candidates for certificates of qualification as stationary or hoisting engineers shall be examined, and shall conduct or provide for and supervise the examination of candidates and report thereon to the Minister. 1914, c. 28, s. 9.

(2) The Board shall have full power and authority to enforce or direct the enforcement of the provisions of this Act and to take such steps as may be necessary for that purpose. 1915, c. 20, s. 17.

5. The Lieutenant-Governor in Council, upon the recommendation of the Minister, may make regulations for:

(a) the examination of candidates, the granting of certificates and the evidence to be furnished by candidates as to previous training or experience and sobriety and good character;

(b) determining the time and duration of certificates and their renewal;

(c) fixing the fees to be paid by candidates upon examination and for certificates and their renewal;

(d) prescribing the causes for which a certificate may be revoked, cancelled or suspended; and for

(e) fixing the fees or other remuneration to be paid to the members and officers of the board.<sup>1</sup>

6. No person shall be eligible for examination unless he is a British subject or has resided in Canada for at least one year.

<sup>1</sup> Regulations have been issued under this section respecting examinations, fees for examinations and certificates, and the granting, renewal and cancellation of certificates.

(Section 6 shall not apply to any hoisting engineer who can show to the satisfaction of the board that he was actually employed as such in Ontario at the time of the passing of this Act. 1914, c. 28, s. 4.)

7. (1) On the recommendation of the Board, and on payment of the prescribed fees, the Minister may issue certificates of qualification to stationary or hoisting engineers. 1914, c. 28, s. 9.

(2) Subject to the regulations a certificate may be revoked, cancelled or suspended by the Minister on the recommendation of the Board at any time.

(3) Every stationary or hoisting engineer shall, during the continuance of his certificate, register with the Board on or before the 1st day of February of each year on a form to be furnished by the Board, and any stationary or hoisting engineer who fails to do so shall not continue in charge of a steam plant unless by special permission of the Board. 1914, c. 28, s. 9.

8. A person who is not the holder of a certificate shall not operate or have charge of any steam plant or hoisting plant, except in case of emergency when he may be employed in operating any steam plant for a period not exceeding thirty days at any one time. 1914, c. 28, s. 5.

9. The Board, at its discretion, may grant a provisional certificate, to be good for a period not to exceed one year, to any person who holds a stationary or hoisting engineer's certificate from the board of examiners or other duly constituted authority of any other province of Canada. 1914, c. 28, s. 9.

10. The certificates shall at all times be exposed to view in the engine or boiler room in which the holder thereof is employed, and failure to keep such certificate exposed shall be *prima facie* evidence of the lack of qualification under this Act.

11. This Act shall not apply to firemen or other workmen acting under the personal direction and supervision of any engineer holding a certificate under this Act who is actually in charge of a steam plant, or to the employees of engine builders or steam plant contractors engaged in installing, setting up or testing a boiler or steam plant, but this section shall not apply to hoisting engineers. 1914, c. 28, s. 6.

12. Any person who deems himself aggrieved by the decision of the Board may appeal therefrom to the Minister upon giving such notice as the Minister may prescribe, and the decision of the Minister shall be final.

13. The Board shall, on or before the 15th day of January in every year, make to the Minister a report in writing for the year ending on the 31st day of December of the previous year showing:—

- (a) the number of certificates granted; 1914, c. 28, s. 7.
- (b) the number of applications for certificates refused and the causes for refusal;
- (c) the number of certificates revoked, cancelled or suspended, and the causes for the same;
- (d) the amount of fees received from candidates or holders of certificates;
- (e) such other matters as may be directed by the Minister or the Lieutenant-Governor in Council.

14. (1) Any member of the Board, on presentation of authority in writing signed by the Minister, may enter any premises wherein he has reason to believe there is a steam or hoisting plant, and make such inspection as may be necessary to determine whether the provisions of this Act are being complied with. 1914, c. 28, s. 10.

(2) Any person who interferes with or obstructs a member of the Board in the exercise of the powers conferred on him shall incur a penalty not exceeding \$100, recoverable under The Ontario Summary Convictions Act.

15. Except as provided in section 8 every person who operates a steam or hoisting plant as the engineer in charge thereof without the certificate required by this Act, and every person employing him or permitting him so to do, shall incur a penalty of not less than \$10 nor more than \$25 recoverable under "The Ontario Summary Convictions Act." 1914, c. 28, s. 10.

16. It shall be the duty of the Inspectors of Factories to assist in the enforcement of this Act, to report to the board any violation thereof, and to furnish to the board such information as they may have as to the conduct and capability of any person holding or applying for a certificate. 1914, c. 28, s. 8.

### Wages as Preferred Claims—In Liquidations.

Chapter 178.—174. Upon a voluntary winding up:

(b) In distributing the assets of the corporation, the salary or wages of all clerks and wage-earners in the employment of the corporation due at the date of the commencement of the winding up or within one month before, not exceeding three months' salary or wages, shall be paid in priority to the claims of the ordinary general creditors, and such persons shall be entitled to rank as ordinary or general creditors for the residue of their claims.



### Railways—Definition of Terms.

Chapter 185.—2. In this Act and in any special Act, in so far as this Act applies thereto,—

- (a) "Board" shall mean The Ontario Railway and Municipal Board;
- (c) "Company" shall mean a railway, street railway or incline railway company, and shall include every such company and any person or municipal corporation having authority to construct or operate a railway or street railway or incline railway;
- (h) "Highway" shall include a public road, street, lane, or other public way or communication;
- (i) "Inspecting engineer" shall mean an engineer who is directed by the Board to examine a railway or works, and shall include two or more engineers when two or more are so directed;
- (o) "Railway" shall mean any railway which the company has authority to construct or operate, and shall include all branches, sidings, stations, depots, wharfs, rolling stock, equipment, stores, property, real or personal, and works connected therewith, and also any railway bridge, tunnel, or other structure which the company is authorized to construct;
- (t) "Special Act" shall mean any Act authorizing the construction of or otherwise specially relating to a railway or street railway, whether operated by steam, electricity or other motive power, and with which this Act is incorporated.
- (u) "Street railway" shall mean a railway constructed or operated along and upon a highway under an agreement with or by-law of a city or town, although it may at some point or points deviate from the highway to a right of way owned by the company, under the powers conferred by section 243, and shall include all portions of the railway within the city or town and for a distance of not more than one and one-half miles beyond the limits thereof, although such one and a half miles may be constructed under a by-law of or agreement with a municipal corporation other than that of such city or town, and shall also include any part of an electric railway which lies within the limits of a city or town and is constructed or operated along and upon a highway;
- (x) "Train" shall include any engine, motor car or other rolling stock;

### Railways—Application of Act.

Chapter 185.—3. This Act shall, unless otherwise expressed, apply to all railways, other than Government railways, and when so expressed, and not otherwise, to street railways and incline railways howsoever incorporated, and whether operated by steam, electricity or other motive power, and whether constructed on highways or on lands owned by the company or partly on highways and partly on such lands, and shall be deemed to be incorporated and shall be construed, as one Act, with the special Act, subject as herein provided.

5. Any section of this Act may, by the special Act, be excepted from incorporation therewith, and may thereby be extended, limited or qualified, and it shall be sufficient, for the purposes of this section, to refer to any section of this Act by its number merely.

6. If in any special Act heretofore passed, it is enacted that any provision of The Railway Act of Ontario, The Electric Railway Act, The Street Railway Act or The Ontario Railway Act, 1906, in force at the time of the passing of such special Act, is excepted from incorporation therewith, or if the application of any such provision is, by such special Act, extended, limited or qualified, the corresponding provision of this Act shall be taken to be excepted, extended, limited or qualified in like manner; and, unless otherwise expressly provided in this Act or the special Act, this Act shall apply to every railway company incorporated under a special Act or any general Act, and the sections expressly made applicable shall apply to every street railway company so incorporated, but where the provisions of the special Act and the provisions of this Act are inconsistent the special Act shall be taken to over-ride the provisions of this Act so far as is necessary to give effect to such special Act.

7. (1) Sections 8 to 52, 54 to 59, 66 to 68, 98, 104, 106, 110, 111, 129, 143, 147, 148, 154, 156, 162, 163 to 172, 175, 176, 210, 226, 227, 264 to 266, 272 to 280, 284 to 299, 301, 302, shall apply to street railway companies.

(2) Sections 8 to 52, 54 to 59, 98, 104, 110, 111, 129, 143, 147, 162, 177, 219, 236 to 238, 240, 257, 264 to 266, 272 to 280, 284 to 299 and 302, shall apply to incline railways.

### Operation of Trains—Safety Appliances.

Chapter 185.—99. (1) Every company shall provide and cause to be used on all trains modern and efficient apparatus, appliances and means



(a) to provide immediate communication between the conductor, while in any car of any passenger train, and the engine driver or motorman;

(b) to check at will the speed of the train, and bring the same safely to a standstill, as quickly as possible, and, except under circumstances of sudden danger or emergency, without causing undue discomfort to passengers, if any, on the train; and

(c) to securely couple and connect the cars composing the train, and to attach the engine to such train, with couplers which couple automatically by impact and which can be uncoupled without the necessity of men going in between the ends of the cars.

(2) Such apparatus, appliances and means for the checking of speed or the stopping of any train shall include a power drive wheel brake and appliances for operating the train brake system upon the locomotive.

(3) There shall also be such a number of cars in every train equipped with power or train brakes that the engineer or motorman on the locomotive drawing such train can control its speed, or bring the train to a stop in the quickest and best manner possible, without requiring brakemen to use the common hand brake for that purpose.

(4) Upon all trains carrying passengers such system of brakes shall be continuous, instantaneous in action, and capable of being applied at will by the engine-driver, motorman or any brakemen, and the brakes must be self-applying in the event of any failure in the continuity of their action.

(5) All box freight cars of the company shall, for the security of railway employees, be equipped with

(a) outside ladders, on two of the diagonally opposite ends and sides of each car, projecting below the frame of the car, with one step or rung of each ladder below the frame, the ladders being placed close to the ends and sides to which they are attached; and

(b) hand grips placed anglewise over the ladders of each box car and so arranged as to assist persons in climbing on the roof by means of the ladders:

and if there is at any time or other improved side attachment which, in the opinion of the Board, is better calculated to promote the safety of the train hands the Board may require any of such cars, not already fitted with the side attachments by this section required, to be fitted with such improved attachment.

(6) The running-board on the roof of each box freight car of the company shall, at all times, be of sufficient thickness and strength, and not less than thirty inches in width, and shall, with proper and safe supports, extend the whole length of the car and beyond each end thereof to a point not more than two inches less than that to which the deadwood or bumpers at each end of such car likewise extend.

(7) Every company shall adopt and use upon all its rolling stock such height of draw-bars as the Board determines, in accordance with any standard from time to time adopted by competent railway authorities.

(8) The Board may upon good cause shown, by general regulation, or in any particular case, from time to time grant delay for complying with the provisions of this section.

(9) The Board may, subject to the requirements of the preceding provisions of this section, upon application, order that any apparatus or appliance specified in such order shall, when used upon the train in the manner and under circumstances in such order specified, be deemed sufficient compliance with such provisions, but the Board shall not by such order allow any exception to or modification of the requirements of this section.

(10) The oil cups or other appliances used for oiling valves of every locomotive in use upon any railway shall be such that no employee shall be required to go outside the cab of the locomotive, while the same is in motion, for the purpose of oiling such valves.

(11) Every passenger, baggage, mail and express car, which is owned or regularly used on any railway in Ontario, in which heating apparatus is placed, shall be provided with such safeguards against fire as the Board shall in writing from time to time approve.

(12) Every company which fails to comply with any of the provisions of this section shall forfeit to His Majesty a sum not exceeding \$200 for every day during which such default continues, and shall as well be liable to pay to all such persons as are injured by reason of the non-compliance with these provisions, or to their representatives, such damages as they are legally entitled to notwithstanding any agreement to the contrary.

100. Every locomotive, engine and electric locomotive shall be furnished with a bell of at least thirty pounds weight or with a steam or air whistle.

101. Every car which contains a motor or which runs at the head of a train shall be furnished with a gong, to be approved by regulation of the Board, or with an air whistle.

**Protection of Employees on Street Railways—Enclosed Platforms, etc.**

Chapter 185.—102. (1) Every car in use for the transportation of passengers in November, December, January, February, March, and April in each year, which while in motion requires the constant care or service of a motorman upon the platforms of the car or upon one of them, shall have its platforms so enclosed as to protect the motorman from exposure to wind and weather in such manner as the Board shall approve.

(2) Every company operating its cars without rear end vestibules shall allow the conductors employed on such cars to stand inside the cars during such period so far as is consistent with the proper performance of their duties.

(3) Every motor car built after the passing of this Act, designed for carrying passengers upon a railway operated by electricity, shall be so constructed that the motorman having the control of the motive power shall be stationed in a compartment into which no person shall be admitted save the officers or employees of the company on duty; and no person other than such officers or employees shall be permitted to occupy any portion of such compartment or vestibule.

(4) Any company offending against the provisions of this section shall incur a penalty of \$100 for each offence and any person offending against the provisions of this section shall incur a penalty of not less than \$2 or more than \$50 recoverable under "The Ontario Summary Convictions Act."

(5) This section shall apply only to railways operated by electricity, street railways and incline railways.

103. The Board may, by order applicable either generally or in one or more particular cases, alter or modify any of the requirements of section 102.

**Protection of Employees on Railways—Power of Board to make Regulations.**

Chapter 185.—104. (1) The Board may make orders and regulations

(c) with respect to the method and means of passing from one car to another, either inside or overhead, and for the safety of employees while passing from one car to another;

(d) for the coupling of cars;

(e) requiring proper shelter to be provided for all employees when on duty;

(j) with respect to the rolling stock, apparatus, cattle-guards, fenders, brakes, sanders, and vestibules, steps, seats, heating, lighting, open or closed cars, appliances, signals, methods, devices, structures and works to be used upon the railway, so as to provide means for the due protection of property, the employees of the company, and the public;

(k) with respect to any matter, act or thing which, by this Act or the special Act is sanctioned, required to be done, or prohibited;

(1) Generally for carrying this Act into effect.

(2) Any such orders or regulations may be made to apply to any particular locality, to any railway or section, or portion thereof, and the Board may exempt any railway or section or portion thereof, from the operation of any such order or regulation, for such time or during such period as the Board deems expedient.

(3) The Board may, by regulation, provide penalties, when not already provided in this Act, to which every company, person or municipal corporation offending against any regulation made under this section shall be liable, but no such penalty shall exceed \$100 for each offence and every such penalty shall be recoverable under The Ontario Summary Convictions Act, or by action at the suit of the Attorney General as the Board may, by regulation, determine.

(4) The imposition of any such penalty shall not lessen or affect any other liability which any company, person or municipal corporation may have incurred.

(5) All orders or regulations under this section may be made to apply to any railways, whether operated by steam, electricity or other motive power, but no such order or regulation shall increase or extend, lessen or impair any obligation or duty resting upon, or any privilege or franchise enjoyed by the company under the special Act or under any agreement.

105. (1) Whenever the Board is of opinion after hearing had upon its own motion or upon complaint, that the regulations, practices, equipment, appliances or service of any railway company, street railway company, or incline railway company in respect to the transportation of persons, freight or property are unjust, unreasonable, unsafe, improper or inadequate, it shall determine the just, reasonable, safe, proper and adequate regulations, practices, equipment, appliances or service thereafter to be in force, to be observed and to be used in such transportation of persons, freight, and property, and fix and prescribe the same by order to be served upon the company to be bound thereby; and it shall be the duty of the company to observe and obey every

requirement of every such order and to do everything necessary or proper in order to secure absolute compliance with and observance of every such order by its officers, agents and employees.

(2) Whenever, in the opinion of the Board, repairs or improvements to or changes in any tracks, road-beds, switches, terminals or terminal facilities, motive power or any other property or device used by any railway company or street railway company, or incline railway company, in or in connection with the transportation of passengers, freight or property, ought reasonably to be made thereto in order to promote the security of convenience of the public or of the employees of the company or to secure adequate service or facilities for the transportation of passengers, freight or property, the Board, upon a hearing had either upon its own motion or after complaint, shall make and serve an order directing such repairs, improvements, changes or additions to be made within a reasonable time and in a manner to be specified therein, and every company shall make all repairs, improvements, changes, and additions required of it by any such order within the time and in the manner specified in the order.

### Safety Provisions—Packing.

Chapter 185.—108. (1) The spaces behind and in front of every railway frog or crossing, and between the fixed rails of every switch, where such spaces are less than four inches in width, shall be filled with packing up to the under side of the head of the rail.

(2) The spaces between any wing rail and any railway frog, and between any guard rail and the track rail alongside of it, shall be filled with packing at their eplayed ends, so that the whole splay shall be so filled where the width of the space between the rails is less than four inches.

(3) Such packing shall not reach higher than to the underside of the head of the rail.

(4) Such packing shall consist of wood or metal, or some equally substantial and solid material, of not less than two inches in thickness, and, where by this section any space is required to be filled in on any railway, shall extend to within one and a half inch of the crown of the rails in use, shall be neatly fitted so as to come against the web of such rails, and shall be well and solidly fastened to the ties on which such rails are laid.

(5) The Board may, notwithstanding the requirements of this section, allow the filling and packing therein mentioned to be left out from the month of December to the month of April in each year, both months included, or between any such dates as the Board, by regulation or in any particular case, determines.

### Railway Bridges, Tunnels, etc.

Chapter 185.—116. (1) Every bridge, tunnel or other erection or structure, over, through or under which any railway passes, shall be so constructed and maintained as to afford, at all times, an open and clear headway of at least seven feet between the top of the highest freight car used on the railway and the lowest beam, member, or portion of that part of such bridge, tunnel, erection or structure, which is directly over the space liable to be traversed by such car in passing thereunder.

(2) The Board may, if necessary, require any existing bridge, tunnel or other erection or structure to be reconstructed or altered, within such time as it may order, so as to comply with the requirements mentioned in the last preceding subsection; and any such bridge, tunnel, or other erection or structure when so reconstructed or altered shall thereafter be maintained accordingly.

(3) Except by leave of the Board the space between the rail level and such beams, members or portions of any such structure, constructed after the 14th day of May, 1906, shall in no case be less than twenty-two feet six inches.

(4) If, in any case, it is necessary to raise, reconstruct or alter any bridge, tunnel, erection or structure not owned by the company, the Board, upon application of the company, and upon notice to all parties interested, or without any application, may make such order, allowing or requiring such raising, reconstruction or alteration, and upon such terms and conditions as to the Board shall appear just and proper and in the public interest.

(5) The Board may exempt from the operation of this section any bridge, tunnel, erection or structure, over, through or under which no trains, except such as are equipped with air brakes, are run.

(6) Every company or owner shall incur a penalty not exceeding \$50 for each day of wilful neglect, omission or refusal to obey the provisions of this section.

### Railway Employees to wear Badges.

Chapter 185.—147. Every employee of the company employed in a passenger train or at a passenger station shall wear upon his hat or cap a badge which shall indicate his office, and he shall not, without such badge, be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, or to interfere with any passenger or his baggage or property.

### Transportation of Explosives.

[Chapter 185, sections 152 and 153, deals with the transportation of explosives.]

### Negligence of Railway Employees.

Chapter 185.—154. (1) When any railway passes over any navigable water or canal by means of a draw or swing bridge which is subject to be opened for navigation every train shall, before coming or crossing over such bridge, be brought to a full stop and shall not thereafter proceed until a proper signal has been given for that purpose.

(2) In default the company shall incur a penalty not exceeding \$400.

(3) Any employee who fails to comply with the rules of the company made for carrying into effect the provisions of this section shall incur a penalty not exceeding \$400, recoverable under "The Ontario Summary Convictions Act," and upon conviction shall also be liable to imprisonment for any term not exceeding six months or both.

(4) Wherever there is in use on any railway at any such bridge an interlocking switch and signal system, or other device which, in the opinion of the Board, renders it safe to permit engines and trains to pass over such bridge without being brought to a stop the Board may, by order, permit engines and trains to pass over such bridge without stopping under such regulations as to speed and other matters as the Board deems proper.

155. (1) When any train is approaching a highway crossing at rail-level the engine whistle shall be sounded at least eighty rods before reaching such crossing, and the bell shall be rung continuously from the time of sounding the whistle until the engine has crossed such highway.

(2) In the case of a car or locomotive operated by electricity an air whistle shall be blown or the gong be sounded continuously for eighty yards before reaching such crossing.

(3) The company shall for each neglect to comply with provisions of this section incur a penalty of \$8, recoverable under "The Ontario Summary Conviction Act," and shall also be liable for all damage sustained by any person by reason of such neglect.

(4) Every employee of the company who neglects to comply with this section shall for each offence incur a like penalty.

(5) This section shall not apply to trains approaching such a crossing within the limits of a city or town where a municipal by-law is in force prohibiting the sounding of the whistle or gong or the ringing of the bell.

159. (1) Whenever any railway crosses any highway at rail-level the company shall not, nor shall its officers, agents or employees, wilfully permit any engine, tender or car, or any portion thereof, to stand on any part of such highway for a longer period than five minutes at one time, or in shunting to obstruct public traffic for a longer period than five minutes at any one time, or for any less period which the Board may prescribe.

(2) For every contravention of this section every such officer, agent or employee who has directly under or subject to his control, management or direction any engine, tender or car, which, or any portion of which, is allowed to stand on such highway longer than the time specified in this section shall incur a penalty not exceeding \$50, recoverable under "The Ontario Summary Conviction Act," and the company shall also for each such violation incur a like penalty, but if such alleged violation is, in the opinion of the justice, excusable the prosecution for the penalty may be dismissed, and the costs shall be in his discretion.

### Rules for Railway Employees.

Chapter 185.—163. The company may, subject to the provisions and restrictions in this and in the special Act, make by-laws, rules or regulations respecting

(g) the employment and conduct of the officers and employees of the company.

164. The company may, for the better enforcing the observance of any such by-law, rule or regulation, prescribe a penalty not exceeding \$25 for any contravention thereof

by an officer or employee of the company, but no such penalty shall be recoverable except under The Ontario Summary Convictions Act which shall apply to proceedings for the recovery thereof.

165. All by-laws, rules and regulations, whether made by the directors or the company, shall be reduced to writing, be signed by the chairman or person presiding at the meeting at which they are adopted, have affixed thereto the common seal of the company and be kept in the office of the company.

166. All such by-laws, rules and regulations, except such as are of a private or domestic nature and do not affect the public generally or impose penalties, shall be submitted to the Board for approval, and the Board may approve of them or any of them, or any part thereof, and may, from time to time, rescind its approval, and until so approved, or after such approval has been rescinded, no such by-law, rule or regulation shall have any force or effect.

167. Such by-laws, rules and regulations while so approved shall be binding upon, and observed by, all persons, and shall be sufficient to justify all persons acting thereunder.

168. (2) A printed copy of so much of any by-law, rule or regulation as relates to the conduct of or affects the officers or employees of the company shall be given to every officer and employee of the company thereby affected.

169. If the contravention or non-observance of any by-law, rule or regulation is attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, the company may summarily interfere, using reasonable force, if necessary, to prevent such violation, or to enforce observance, without prejudice to any penalty incurred in respect of such violation or non-observance.

170. A copy of any by-law, rule or regulation, certified as correct by the president, secretary or other executive officer of the company and bearing the seal of the company, shall be evidence thereof in any court.

171. Every written or printed document purporting to have been issued or authorized by a company, or any officer, agent or employee of a company, or any other person or company for or on its behalf, shall, as against the company, be received as *prima facie* evidence of the issue of such document by the company, and of the contents thereof, without any further proof than the mere production of such document.

172. All by-laws, rules and regulations of a company operating its railway by electricity partly or wholly on a highway or of a street railway company shall be subject to any agreement between such company and the municipal corporation owning or maintaining such highway.

### Inspection of Railways.

Chapter 185.—175. (1) Whenever any complaint is made to the Board, or the Board receives information, that any railway or any portion thereof is dangerous to the public using the same from want of renewal or repair, or insufficient or erroneous construction, or from any other cause, or whenever circumstances arise which, in its opinion, render it expedient the Board may direct an inspecting engineer to examine the railway or any portion thereof.

(2) The Board may, upon the report of the inspecting engineer, order any repairs, renewal, reconstruction, alteration or new work, materials or equipment to be made, done or furnished by the company upon, in addition to or substitution for any portion of the railway which may, from such report, appear to the Board necessary or proper, and may order that until such repairs, renewals, reconstruction, alteration, and work, materials or equipment are made, done and furnished to its satisfaction no portion of the railway, in respect of which such order is made, shall be used, or used otherwise than subject to such restrictions, conditions and terms as the Board may in such order impose.

(3) The Board may, by such order, condemn and thereby forbid further use of any rolling stock which, from such report, it may consider unfit to repair or use.

(4) If, after notice of any such order, made by the Board, the company uses any rolling stock which has been so condemned by the Board, or disobeys, or fails to comply with any order of the Board made under this section, the company shall incur a penalty of \$2,000.

(5) Any person wilfully and knowingly aiding or abetting any such contravention shall incur a penalty of not less than \$20 nor more than \$200, recoverable under The Ontario Summary Convictions Act.

176. (1) If, in the opinion of any inspecting engineer, it is dangerous for trains to pass over any railway or any portion thereof until alterations, substitutions or repairs are made thereon, or that any of the rolling stock should be run or used, he may, by notice in writing,

(a) forthwith forbid the running of any train over such railway or portion of railway; or,

(b) require that the same be run only at such times, under such conditions and with such precautions as he by such notice specifies; and

(c) forbid the running or using of any such rolling stock.

(2) Such notice shall state the reasons for such opinions of the inspecting engineer, and distinctly point out the defects or the nature of the danger to be apprehended.

(3) The notice may be served upon the company owning or running, or using such railway or rolling stock, or upon any officer having the management or control of the running of trains upon the railway, or the management or control of the rolling stock.

(4) The inspecting engineer shall forthwith report such notice to the Board, which may either confirm, modify or disallow the act or order of such engineer.

(5) Notice of such confirmation, modification or disallowance shall be duly given to the company.

(6) If any company refuses or neglects to comply with any order of the Board, made under this section, the company shall for each such refusal or neglect, forfeit to His Majesty the sum of \$2,000.

(7) Any person wilfully and knowingly aiding or abetting any such disobedience or non-compliance shall incur a penalty of not less than \$20 or more than \$200, recoverable under The Ontario Summary Convictions Act.

(8) No prosecution for any penalty under this section shall be instituted without the authority of the Board.

### Sunday Street Cars.

Chapter 185 with amendment.—234. (1) Subject to section 235 no company or municipal corporation operating a street railway, tramway or electric railway shall operate the same or employ any person thereon on the first day of the week commonly called Sunday, except for the purpose of keeping the track clear of snow or ice, or for the purpose of doing other work of necessity.

(2) This section shall not apply to any railway company or municipal corporation which now has the right to operate its street railway, tramway or electric railway on Sunday, or to the corporation of the city of London, or the London Railway Commission, in the operation of the London and Port Stanley railway. 1914, c. 21, s. 40.

(3) For every train run or operated in violation of this section the company shall incur a penalty of \$400, recoverable by any person suing for the same under this section and for the purpose thereof.

(4) All money recovered under this section shall be appropriated as follows: One moiety to the plaintiff and the other to the corporation of the local municipality from which the train or car started; but if the train or car is operated by the corporation of the municipality from within the limits of which the same started the plaintiff shall receive the whole amount so recovered.

(5) The conductor or other person in charge of any train run or operated in contravention of this section shall, for every such offence, incur a penalty not less than \$1 nor more than \$40, recoverable under The Ontario Summary Convictions Act.

(6) This section shall apply to all electric and street railways, whether operated on a highway or on a right of way owned by the company.

235. (1) Subject to subsections 2 and 3, and notwithstanding anything in this Act or any other Act, street railways may be operated on Sunday within a city having a population of over 50,000 after a majority of those voting of the electors qualified to vote at municipal elections have voted in the affirmative in answer to the question: "Are you in favour of operating street railway on Sunday?" but no person shall be entitled to vote more than once on such question.

(2) The question shall not be submitted until the Lieutenant-Governor in Council has declared that the population of the city is over 50,000, and the Lieutenant-Governor in Council may require a census to be taken and may prescribe the nature of the census and the time and manner of taking the same.

(3) When the Lieutenant-Governor in Council has declared that the population of the city is over 50,000, the question may be submitted at the annual municipal election, if the municipal council shall have decided on or before the 1st of December preceding the date of such election to submit the question, and shall not later than the 15th of December have given notice of such decision by public advertisement, for at least one week in each issue of some daily newspaper published in the municipality.

(4) The provisions of "The Municipal Act" as to the submission of questions to the electors and the voting thereon and the imposition of penalties and the prevention of corrupt practices in connection with elections shall apply to a vote taken under the provisions of this section, but no person shall be entitled to vote more than once on the question.

(5) Nothing in this section shall entitle a street railway company, which has entered into an agreement with a municipal corporation not to run cars on Sunday, to run any of their cars on any Sunday unless and until the company has received per-

mission from the council of such corporation by by-law to run their cars on Sunday, and then only under and subject to such terms and conditions as may be contained in such by-law, and unless and until the company has also entered into an agreement with the corporation to observe the terms and conditions of the by-law.

### Hours of Labour for Railway Employees.

Chapter 185.—236. No employee shall be required or permitted to work for more than six days of ten hours each in any one week.

237. Where a railway is operated on Sunday no employee shall be required or permitted to work on any Sunday when he has worked on the previous Sunday.

238. For each day on which a breach of either of the two next preceding sections is committed the corporation or company offending shall incur a penalty of not less than \$25 or more than \$100.

### Conveniences for Street Railway Employees.

Chapter 185.—254. (1) Every street railway company and incline railway company shall, within six months after being so ordered by the Board, provide, furnish and thereafter maintain suitable and sanitary urinals and other conveniences for the use of the employees of the company operating its cars.

(2) Such urinals and other conveniences may be located upon land owned or provided by the company and reasonably accessible to each of the lines of railway operated by the company, and at such points as the Board may direct, within the limits of the city or town, and the employees of the company shall be allowed reasonable opportunity of access thereto.

(3) The company shall incur a penalty of \$10 per day for each day upon which it neglects to provide such urinals or other conveniences.

(4) The Board shall determine whether the cost of such urinals and conveniences shall be borne by the company or by the city or town within the limits of which the company's lines are operated, or by both, and if by both the proportions in which the same shall be borne by them respectively, in case the parties are unable to agree, as may be determined by the Board.

(5) The Board may order the city or town to provide the site for such urinals or other conveniences, upon such terms as to cost and otherwise as the Board may determine.

### Examination of Railway Employees—Colour Blindness.

Chapter 185.—263. (1) No person shall be employed as a motorman on any railway or street railway operated by electricity until he has been subjected to a thorough examination by an examiner or examiners, to be approved by the Board, as to his habits, physical ability and intelligence, and has undergone such training as may be prescribed by the Board, by regulation applicable generally or to the particular railway, and the examiner has reported to the Board that such person is competent to fill the position of motorman.

(2) He shall then be placed on a car with an instructor, and when the examiner is satisfied as to his capability for the position of motorman he shall so certify to the Board, and, if such person is employed, he shall, so far as reasonably possible, first serve on the lines of least travel.

(3) The company shall pay for the services of the examiner.

264. (1) No company shall employ any person in a position which requires him to distinguish form or colour signals unless, within two years next preceding his appointment, he has been examined for colour blindness on the distinct colours in actual use as signals on the company's line of railway, and also as to his eyesight generally, by some competent person employed for the purpose by the company and approved by the Board, and has received a certificate that he is not disqualified for such position by reason of colour blindness or otherwise in respect of his eyesight.

(2) The company shall cause such employees to be re-examined for colour blindness, and otherwise in respect of their eyesight, at least once in every two years.

(3) Nothing in this section shall prevent the company from continuing in its employment any person having defective sight in cases where the same can be fully remedied by the use of glasses or by other means satisfactory to the person making the examination.

(4) For every contravention of this or the next preceding section the company shall, for each offence, incur a penalty of \$100.



### Railways—Actions for Damages.

Chapter 185.—265. (1) Subject to subsection 4 of section 139 all actions for indemnity, or for any damages or injury sustained by reason of the construction or operation of the railway, shall be commenced within one year next after the time when such supposed damage is sustained, or, if there is continuation of damage, within one year next after the doing or committing of such damage ceases, and not afterwards.

(3) No inspection had under this Act, and nothing in this Act and nothing done or ordered, or omitted, to be done, or ordered under or by virtue of the provisions of this Act, shall relieve, or be construed to relieve, any company of or from or in any wise diminish or affect any liability or responsibility resting upon it by law, either towards His Majesty or towards any person, or the wife or husband, parent or child, executor or administrator, heir or personal representative, of any person, for anything done or omitted to be done by such company, or for any wrongful act, neglect or default, misfeasance, malfeasance or non-feasance, of such company.

266. (1) No company owning or operating a railway whole or in part in Ontario shall adopt or promulgate any rule or regulation for the government of its servants or employees or make or enter into any contract or agreement with any person engaged in or about to engage in its service, in which such employee directly or indirectly promises or agrees to hold such company harmless, on account of any injury he may receive by reason of any accident to, breakage, defect or insufficiency in the cars, motors, locomotives or machinery or attachments thereto belonging, and any such rule, regulation, contract or agreement shall be void and of no effect.

(2) No such company shall demand, accept, require, or enter into any contract or agreement with any person about to enter or in the employ of the company whereby such person agrees to surrender or waive any right to damages for personal injury or death against any such company thereafter arising; and all such contracts and agreements shall be void.

(3) Every company contravening or aiding in the contravention of this section shall, for each offence, incur a penalty of five hundred dollars, to be recovered in any court of competent jurisdiction by any person suing therefor.

(4) No such company shall knowingly or negligently use or operate any car, motor or locomotive that is defective, or any car, motor or locomotive upon which the machinery or attachments thereto belonging are in any manner defective.

### Fair Wages for Employees on Subsidized Railways—Alien Labour.

Chapter 185.—267 (1) Where this Legislature has heretofore granted or hereafter grants financial aid by way of subsidy or guarantee towards the cost of railway construction, all mechanics, labourers or other persons, who perform labour in such construction shall be paid such wages as are generally accepted as current for competent workmen in the locality in which the work is being performed; and if there is no current rate in such locality, then a fair and reasonable rate.

(2) If a dispute arises as to what is such current rate, or a fair and reasonable rate, it shall be determined by the Board whose decision shall be final.

268. (2) Every subsidy heretofore granted out of the Consolidated Revenue Fund in aid of any railway, as to any part thereof which is still unearned, and every such subsidy hereafter granted, in addition to all other lawful requirements, shall be subject to any conditions which may be imposed by the Lieutenant-Governor in Council respecting the tolls to be charged to "Settlers" or "Prospectors" using any such subsidized railway or any part thereof in connection with their prospecting and settling in any district through which the railway runs, either for freight or passenger service.

(4) Every such subsidy shall further be subject to the condition that the workmen, labourers or servants employed in or about the construction and operation of the railway shall be paid such rate of wages as may be currently payable to workmen, labourers and servants engaged in similar occupations in the district in which such railway is constructed and operated, and upon breach of such condition by the railway company there may be deducted and retained from any money payable in respect of such unearned subsidy such amount as the Lieutenant-Governor in Council may deem proper, and if the subsidy has been paid over before such breach such part thereof as may be determined by Order in Council may be recovered back from such railway company at the suit of the Attorney General in any court of competent jurisdiction.

(6) No person shall be employed in the construction of any railway receiving a subsidy either in money or in land who is a citizen or subject of any country having an alien labour law which has the effect of excluding Canadians from employment upon the public works of such country or on other works therein.

(7) For every contravention of subsection 6 the company shall incur a penalty of \$20 per day for each person so employed during the whole period of such employment.

### Hours of Labour for Railway Employees.

Chapter 185.—270. No company operating a line of railway, of twenty miles in length or over, shall require or permit a conductor, engineer, motorman, fireman, trainman, despatcher or signal man who has worked in any capacity for sixteen consecutive hours to go again on duty to perform any kind of work unless he has had at least six hours' rest.

271. (1) The Board may regulate the hours during which conductors and motormen, employees of a street railway company, may be required or permitted to work, but in no case shall an employee be permitted to work more than six days in a week or ten hours per day, and, whenever practicable and reasonable, such ten hours' work shall be performed within twelve consecutive hours.

(2) The power conferred by subsection 1 may be exercised notwithstanding the provisions of any agreement between a municipal corporation and a railway company as to hours of labour.

(3) Every company which, and every director, superintendent, manager or officer of a company who contravenes the provisions of any order of the Board, made under the authority of subsection 1, or contravenes any of the provisions of this section, shall, for each contravention, incur a penalty of not less than \$100 nor more than \$250, recoverable under "The Ontario Summary Convictions Act."

### Returns of Railway Accidents—Investigations.

Chapter 185.—273. (1) Every company shall annually, or more frequently if the Board so requires, make to the Board, under the oath of the president, secretary or superintendent of the company, a true and particular return in duplicate of all accidents and casualties, whether to persons or to animals or other property, which have occurred on the property of the company or in connection with the operation thereof, setting forth:—

(a) the causes and natures of such accidents and casualties;

(b) the points at which such accidents and casualties occurred, and whether by night or by day; and

(c) the full extent of such accidents and casualties, and all the particulars thereof.

(2) Such return shall be made for the period beginning from the date to which the then last return made by the company extended, or, if no such return had been previously made, from the commencement of the operation of the railway and ending with the last day of June in the current year.

(3) Every company shall also, when required by the Board, return a true copy of the existing by-laws of the company and of its rules and regulations for the management of the company and of its railway, or of such other undertaking or business of the company as it is authorized to carry on.

274. The Board may order and direct any company to make up and deliver to the Board from time to time, in addition to such periodical returns, returns of serious accidents occurring in the course of the public traffic upon the railway belonging to such company, whether attended with personal injury or not, in such form and manner as the Board deems necessary and requires for its information with a view to public safety.

275. The Board may order and direct the form in which such returns shall be made.

277. If any company or officer, servant, or agent thereof fails or neglects to make any of the returns required by this Act or by the Board under the authority thereof when and as required by the Board, or fails to make any such returns to the utmost of its or his knowledge or means of knowledge, the company, and every such officer, servant or agent, so in default, shall severally incur a penalty recoverable under "The Ontario Summary Convictions Act" not exceeding \$10 for every day during which such default continues.

278. (1) If any company, or officer, servant or agent thereof wilfully or negligently makes any false return or any false statement in any such return, the company, and any such officer, servant or agent offending shall be severally liable to a penalty not exceeding \$500, recoverable under The Ontario Summary Convictions Act.

(2) Every such officer, servant or agent so offending shall also, on conviction, be liable to imprisonment for any period not exceeding six months.

### Investigation of Accidents.

279. (1) Every company shall, as soon as possible, and immediately after the head officers of the company have received information of the occurrence upon the railway belonging to such company of any accident attended with personal injury to any person using the railway or to any employee of the company, or whereby any bridge, viaduct, culvert or tunnel on or of the railway has been broken or so damaged as to be impassable or unfit for immediate use, give notice thereof, with full particulars, to the Board.

(2) Every company which wilfully and negligently omits to give such notice shall incur a penalty of \$100 for every day during which the omission to give the same continues.

(3) The Board may, by regulation, declare the manner and form in which such information and notice shall be given and the class of accidents to which this section shall apply, and may declare any such information so given to be privileged.<sup>1</sup>

(4) The Board may inquire into all matters and things which it deems likely to cause or prevent accidents and the causes of, and the circumstances connected with, any accident or casualty to life or property occurring on any railway, and into all particulars relating thereto.

(5) The Board may order the company to suspend or dismiss any employee of the company whom it may deem to have been wilfully negligent in respect of any such accident.

(6) The Board shall include in its annual report to the Lieutenant-Governor in Council the result of any such inquiry with such recommendations as to it may seem proper.

### **Intoxication of Railway Employees.**

Chapter 185.—289. Every person who sells, gives or barter any spirituous or intoxicating liquor to or with any servant or employee of any company while on duty shall incur a penalty not exceeding \$25 recoverable under The Ontario Summary Convictions Act.

290. Every conductor, locomotive engineer, motorman, train despatcher, telegraph operator, station agent, switchman, signal man, bridge tender, or any other person who is intoxicated or under the influence of liquor while on duty, in charge of or in any employment having to do with the movement of trains upon any railway, shall incur a penalty not exceeding \$400, recoverable under The Ontario Summary Convictions Act, and shall, upon conviction, also be liable to imprisonment for any term not exceeding five years, or both, in the discretion of the court before which the conviction is had and according as such court considers the offence proved to be more or less grave as causing injury to any person or property, or as exposing or likely to expose any person or property to injury, although no actual injury occurs.

### **Industrial Disputes on Public Utilities—Arbitration and Mediation.**

Chapter 186.—60. (1) A dispute between a railway, street railway or public utility company and its employees may be submitted to the Board for its determination and settlement.

(2) The submission shall be in writing and shall contain a statement of the matters in dispute, and also an agreement to abide by the determination of the Board and to continue in business or at work without a lockout or strike during the investigation.

(3) Upon such submission the Board shall investigate and determine the matters in dispute and shall render its decision within ten days after the completion of the investigation.

(4) The proceedings shall, as nearly as may be, be the same as in the case of any other enquiry which the Board is authorized to make, but the Board may regulate the proceedings and the manner of conducting them as to the Board may seem meet.

#### **Mediation in Case of Strike or Lockout.**

61. (1) Whenever a strike or lockout of the employees of any railway, street railway, or public utility company occurs, or is threatened, the Board shall proceed as soon as practicable to the locality thereof and endeavour by mediation to effect an amicable settlement of the controversy.

(2) Wherever there exists any such strike or lockout by reason of which, in the opinion of the Board, the general public is likely to suffer injury or inconvenience with respect to food, fuel or light, power, the means of communication or transportation, or in any other respect, and the parties to such strike or lockout will not consent to submit the matters in controversy to the Board, the Board, after having first endeavoured to effect a settlement by conciliatory means and having failed, may proceed of its own motion to make an investigation of all facts bearing upon such strike or lockout, and shall make public its findings with such recommendations to the parties as, in its judgment will contribute to a fair and equitable settlement of their differences, and in the prosecution of such enquiry the Board shall have all the powers conferred upon it by section 53.

<sup>1</sup> Regulations have been issued under this section requiring written notices of accidents, prescribing the form for such notices, and declaring that the information given shall be privileged.

### Licensing of Chauffeurs.

Chapter 207 with amendment.—4. (1) No person shall, for hire, pay or gain, drive a motor vehicle on a highway unless he is licensed to do so, and no person shall employ anyone so to drive a motor vehicle who is not so licensed.

(2) The license for such purpose may be issued by the Provincial Secretary to such person for such time and upon such terms and subject to such regulations and restrictions as the Lieutenant-Governor in Council may prescribe.<sup>1</sup>

(3) A license shall not be issued to a person who drives a motor vehicle for hire, pay or gain unless and until he files in the office of the Provincial Secretary a certificate signed by one member of the Ontario Motor League appointed for that purpose by the Lieutenant-Governor in Council and residing in the municipality in which the applicant for the license resides, and also by the chief constable of that municipality stating that they have examined the applicant and that he is a fit and proper person to be so licensed, having regard to his character, physical fitness, ability to drive and knowledge of the rules of the road. 1916, c. 47, s. 5 part.

(4) If there is not one appointed member residing in the municipality, the certificate may be signed by one such appointed member residing in the municipality, the certificate that in which the applicant resides. 1916, c. 47, s. 5 part.

5. A license must be produced by any person driving a motor vehicle for hire, pay or gain when demanded by a peace officer.

### Licensing of Bartenders—Cashing of Pay Cheques in Hotels—Sale of Intoxicants near Public Works.

[Chapter 215, section 40 prohibits the employment of unlicensed bartenders and provides for the issue of licenses. No licenses are to be issued to minors or to women. Section 60 prohibits the cashing of pay cheques, etc., by any tavern or shop licensee. Section 151 empowers the Lieutenant-Governor in Council to prohibit by proclamation the sale of liquor near public works. Chapter 215 is repealed by 1916, chapter 60, The Ontario Temperance Act.]

### Inspection and Regulation of Factories—Ventilation, etc.

[Chapter 218, The Public Health Act, section 73 defines a "nuisance," and section 74, without restricting the general application of the preceding section, enumerates particular nuisances, among which are the following:—]

(g) Any work, manufactory, trade or business so situated as to be injurious or dangerous to health;

(i) Any . . . . . factory, shop or other building, which is not in a cleanly state or free from effluvia arising from any drain, privy, water or earth closet, urinal or other nuisance; or is not ventilated in such a manner as to render harmless so far as practicable any gases, vapours, dust or other impurities generated therein which are injurious or dangerous to health, or is so overcrowded as to be injurious or dangerous to the health of those employed or being therein.

[Sections 75 to 81 inclusive provide for the inspection of premises to prevent nuisances or to abate any existing nuisance; for the service of a notice upon the person in fault requiring the abatement of a nuisance; and for the application to a Judge of the Supreme Court for an order for the removal of the nuisance in certain cases.]

### Inspection and Regulation of Construction Camps, etc.—Medical Attendance for Employees.

Chapter 218.—117. Sections 116 to 124 shall apply only to territory without municipal organization.

118. (1) The Provincial Board of Health may, with the approval of the Lieutenant-Governor in Council, make regulations:

(a) Respecting any industry and the conditions under which the same may be carried on, for the purpose of preventing nuisances and the outbreak or spread of disease;

(b) For the cleansing, regulating and inspection of lumbering camps and of mining camps and railway construction works and of other places where labour is employed;

(c) For providing for the inspection of houses and premises;

<sup>1</sup> Regulations have been issued prescribing conditions to be observed in applying for a license, fixing the fees for licenses, and directing licensed operators to display their badges when driving.

(d) For providing for the employment of duly qualified medical practitioners by employers of labour in lumbering camps and in mining camps and on railway construction works and other works where labour is employed, and for the erection of permanent or temporary hospitals for the accommodation of persons so employed.

(2) The regulations may be general in their application or may be made applicable specially to any particular locality or industry.

(3) The expenses of carrying out the regulations shall be paid to the person entitled thereto by the persons, firms or corporation whose duty it may be to carry out such regulations, and the amount so to be paid shall be apportioned by the Minister among them as he may deem proper, and every amount so apportioned shall be deemed to be a debt due from the person, firm or corporation, and may be recovered by the person entitled thereto by action in any court of competent jurisdiction.

(4) If default is made in complying with any of the Regulations, the Board may direct that what is omitted to be done shall be done at the expense of the person, firm or corporation in default, and if the default is the failure to employ a duly qualified medical practitioner, as provided by clause (d) of subsection (1), the employing person, firm or corporation shall be liable to pay the reasonable expenses incurred by any employee for medical attendance and medicines, and for his maintenance during his illness.<sup>1</sup>

### Housing Accommodation for Workingmen.

Chapter 220 with amendment.—1. This Act may be cited as The Housing Accommodation Act.

2. In this Act,

(a) "Land" shall include leaseholds;

(b) "Securities" shall mean bonds, debentures, debenture stock or other securities.

3. A company incorporated under The Ontario Companies Act with a share capital whose main purposes of incorporation are the acquisition of land in or near a city or town in Ontario and the building and making thereon of dwelling houses of moderate size and improvements and conveniences, to be sold at moderate prices or to be rented at moderate rents, may petition the council of such city or town to guarantee its securities to enable or assist it to raise money to carry out such main purposes.

4. (1) If the council is satisfied that additional housing accommodation for those living or working in the municipality is urgently needed, and that the main purpose of the company is to help, *bona fide*, in supplying such need and is not to make profits, and that the company, without borrowing the money required, over and above the proceeds of the guaranteed securities, for the housing accommodation in contemplation, will be able to provide the same the council may, with the assent of the electors entitled to vote on money by-laws, pass a by-law authorizing and providing for the giving by the council of such guarantee to the amount and upon the terms and conditions hereinafter contained.

(2) It shall not be necessary to obtain the assent of the electors to the by-law if it is approved of by the Provincial Board of Health.

5. The council or a committee thereof shall, before the guarantee is given, approve of the location of the land selected for the housing accommodation and of the general plans for the houses.

6. The securities to be guaranteed shall be secured by one or more deeds of trust by way of first mortgage or charge upon such land as the council or committee may approve of, including the houses and improvements built and made or to be built and made thereon.

7. The kind of securities to be guaranteed and the forms and terms thereof, and the forms and terms of the deed or deeds of trust securing them, and the trustee or trustees, and the times and manner of the issue of securities, and the disposition of the money to be raised thereon by sale, pledge or otherwise pending the expenditure of such money and the forms and manner of guarantee, shall be such as the council or committee approve of; and such terms, provisions and conditions may be included in such deed or deeds of trust as the council or committee deem expedient or necessary.

8. (1) The guarantee shall be signed by the mayor and treasurer of the municipal corporation, and upon being so signed the corporation shall become liable for the payment of the principal and interest of the securities guaranteed according to the tenor thereof.

(2) If the corporation becomes liable to pay any of such guaranteed securities it may provide for the payment of the same out of the general funds of the corporation or by the issue of debentures payable within a term not exceeding ten years from the issue thereof, and it shall not be necessary to obtain the assent of the electors to a by-law providing for the issue of such debentures.

<sup>1</sup> Important regulations have been issued under this section providing for the sanitary supervision and the proper ventilation, lighting, etc., of camps, and for medical attendance for employees therein.

9. The total amount of securities to be guaranteed shall not in the first instance exceed eighty-five per centum of an amount to be fixed in the deed or deeds of trust as representing the value of the land and housing accommodation and improvements to be built and made thereon; and the deed or deeds may make all convenient provisions for the expenditure of additional money on such land and housing accommodation and improvements, and for the acquisition of additional land to be made part of the mortgaged premises and for expenditure thereon, and for the issue of additional guaranteed securities under such deed or deeds, but so that the total amount outstanding shall not exceed eighty-five per centum of the value of the mortgaged premises to be ascertained and fixed in the manner provided in such deed or deeds, and for the issue of such additional securities in advance of expenditure, and for the disposition of the money to be raised thereon by sale, pledge or otherwise pending the expenditure thereof.

10. (1) The council of the municipal corporation which guarantees securities of the company as provided for in this Act may from time to time appoint and remove one member of the Board of directors of such company, and in case of a vacancy in such membership by removal, death, resignation or otherwise his successor may be appointed by the council and so on from time to time.

(2) It shall not be necessary for the appointee of the council to hold stock in the capital of the company or to be otherwise qualified as a director.

11. The books of a company whose securities have been guaranteed by a municipal corporation, hereinafter referred to as the "Assisted Company," shall at all times be open to inspection by any person named in that behalf by the council.

12. (1) No dividend upon the capital stock of the Assisted Company or other distribution of profits among the shareholders shall be declared or paid exceeding six per centum per annum in any one year.

(2) Such dividend may be payable in instalments during the year.

(3) If the sums paid in any year do not amount to six per centum the deficiency, with interest, may be made up in any subsequent year or years.

13. (1) Any net profits received by the Assisted Company in any year and not required to pay such six per centum or to make up a deficiency therein or for a reasonable contingent fund shall be expended by the company in acquiring land, improving its housing accommodation by way of new buildings, additions, extensions or other improvements or in redeeming or getting in the capital stock of the company as herein-after provided.

(2) The Supreme Court shall have jurisdiction, upon the application of the council of the municipal corporation guaranteeing the company's securities, to enforce by mandamus or otherwise the carrying out of this section by the company, its directors and officers.

14. (1) The Assisted Company may, with the approval of the council of the municipal corporation guaranteeing its securities, pass a by-law providing for redeeming or getting in, upon such plan and terms and at such times as may be deemed best, the whole or part from time to time of the outstanding shares in the capital stock of the company.

(2) For such purpose any available money, whether representing capital or otherwise may be used; but no greater premium than ten per centum shall be paid upon the redemption or getting in of any share, and after five years from the first issue of guaranteed securities the company, at the request of the council, shall pass such by-law and any difference which may then arise respecting the terms thereof shall be settled by the Lieutenant-Governor in Council.

15. Any shareholder may give or bequeath to the Assisted Company or to the board of trustees, established under section 16, the whole or any part of his shares in the capital stock of the company, and the company may accept and hold the same until transferred to such board of trustees.

16. (1) The Assisted Company may, with the approval of the council of the municipal corporation guaranteeing the securities, establish a board of trustees to receive and hold the shares redeemed or not in or given or bequeathed to the company or to such board upon such trusts and for such purposes and with such powers as may be thought expedient in furtherance of the objects of this Act and as may be declared or provided for in the instrument establishing the board.

(2) The successors of such trustees shall be appointed in the manner provided for in the instrument.

(3) The company with the like approval may alter the terms of the instrument and add to or otherwise vary the trusts, purposes and powers therein mentioned.

(4) After five years from the first issue of guaranteed securities the company, at the request of the council, shall establish such board of trustees, and any differences which may then arise respecting the terms of the instrument establishing the board shall be settled by the Lieutenant-Governor in Council.

17. The shares redeemed or got in or given or bequeathed to the company shall not become extinct but shall be transferred to and vested in the board of trustees.

18. The council of the municipal corporation guaranteeing the company's securities may from time to time furnish the company with money to be applied in the redemption or getting in of shares from time to time under the terms of the by-laws mentioned in section 14, and the company shall apply such money accordingly.

19. No share in the capital of the Assisted Company shall be sold or disposed of for any consideration other than cash, and money received by the Assisted Company on account of its capital stock shall not be used for expenditures other than those connected with the carrying out of the main purposes of the company, that is to say, the acquisition of land in or near a city or town in Ontario and the building and making thereon of dwelling houses of moderate size and improvements and conveniences, and the carrying out of the objects of this Act.

20. The Assisted Company may accept gifts, devises and bequests of real and personal property, notwithstanding The Mortmain and Charitable Uses Act.

### Protection of Employees on Buildings.

Chapter 228.—1. This Act may be cited as The Building Trades Protection Act.

2. In this Act,

(a) "Building" shall include any structure roofed in or intended to be roofed in and capable when completed of affording protection and shelter;

(b) "Inspector" shall mean an inspector appointed by a municipal council or by the Lieutenant-Governor in Council for the purpose of enforcing the provisions of this Act.

3. The council of every city, town, township and village shall, by by-law, appoint a sufficient number of competent persons to be inspectors for the purpose of enforcing the provisions of this Act in the municipality.

4. The Lieutenant-Governor in Council may appoint inspectors to enforce this Act in territory without municipal organization.

5. (1) Where any inspector appointed under this Act finds that any provision of this Act is being violated in the case of any building, he may give such orders in writing as may, in his opinion, be required to secure due compliance with such provision, and upon any such order being made and until the same is carried out the work upon that part of the building in which the default occurs shall be suspended.

(2) Every person to whom the order of the inspector is directed who disobeys or who knowingly permits any person under his direction and control to disobey any such order or to carry on work in violation of subsection 1 before the order is carried out shall incur a penalty not exceeding \$50 for every day upon which such default occurs.

6. In the erection, alteration, repair, improvement or demolition of any building, no scaffolding, hoists, stays, ladders, flooring or other mechanical and temporary contrivances shall be used which are unsafe, unsuitable or improper, or which are not so constructed, protected, placed and operated as to afford reasonable safety from accident to persons employed or engaged upon the building.

7. The following regulations shall be complied with in the erection, alteration, repair, improvement or demolition of every building:

(1) The floors of all scaffolding whether standing or suspended from overhead shall be at least four feet wide and there shall be a railing or guard not less than three feet nor more than four feet from the flooring on the outside of the scaffolding for the protection of persons working thereon;

(2) Where the scaffolding or staging is swung or suspended from an overhead support, it shall be so secured as to prevent its swaying to and fro;

(3) Where poles are used in scaffolding the poles shall be securely lashed at every point of contact, and where square timber is used in scaffolding the same shall be securely spiked or bolted at every point of contact;

(4) No lumber or timber shall be hoisted in a single sling;

(5) Where hoists are used for raising materials for use in buildings, the shafts or openings shall be protected at each floor by a barrier not less than three feet nor more than four feet from the level of the floor, and the barrier shall be placed not less than two feet from the edge of the shaft or opening in which the hoist is operated.

8. (1) Where the plans and specifications require the floors to be arched between the beams thereof, or where the floors or filling in between the floors are of fireproof material, the flooring or filling in shall be completed as the building progresses to not less than within three tiers of beams below that on which the iron work is being erected.

(2) Where the plans and specifications do not require filling in between the beams of floors with fire-proof material or brick work, the contractor for the carpenter work, in the course of construction, shall lay the under flooring of the building on each



storey as the building progresses to not less than within two storeys below the one to which the building has been erected.

(3) Where double floors are not to be used, such contractor shall keep planked over the floor two storeys below the storey where the work is being performed.

(4) If the floor beams are of iron or steel, the contractor for the iron or steel work of a building in course of construction or the owner of such a building shall thoroughly plank over the entire tier of iron or steel beams on which the structural iron or steel work is being erected, except such spaces as may be reasonably required for the proper construction of such iron or steel work and for the raising or lowering of materials to be used in the construction of such building, and such spaces as may be designated by the plans and specifications for stairways and elevator shafts.

9. In the case of what are known as skeleton steel frame buildings, compliance with the following regulations shall be sufficient and it shall not be necessary to comply with the requirements of section 8:

(1) As soon as the steel frame of a building is erected to the first column splice above the first floor level, a flooring of two inch planking shall be laid over floor beams on the floor immediately below the first column splice, making a temporary floor over that part of the area of the building inside columns at that level, except in places where it is necessary to have openings for the passage of material for building above that point; and when erection has reached a point level with the next column splice, the planking used as temporary floor at first column splice shall be removed and placed as before at second splice, and so on to the top of the building;

(2) A double flooring of two inch planking shall be laid down immediately under any derrick for a sufficient space about the derrick to protect the workmen on the floors below that on which the derrick is working and to hold with safety the materials hoisted by the derrick.

(3) Rivetters' staging shall be so constructed as to secure the reasonable safety of the rivetters and a temporary floor must be provided on the girders and floor beams immediately below the portion of the floor upon which the rivetters are working, sufficient for the protection of workmen engaged below that floor.

(4) The steel work may be carried on in advance of the construction of permanent floors.

10. In cities and towns the following regulations shall be complied with in erecting, altering, or repairing any building:

(1) When the work is located on the line of any street or within three feet of the inside line of the sidewalk of any street, before any of the work above the sidewalk or footway is commenced, there shall be erected over the sidewalk or footway of the street a covered passageway or independent structure not less than eight feet high at the lowest side above the level of the sidewalk or footway and of sufficient strength to protect the public using the sidewalk or footway.

(2) If a building is to be erected within seven feet of the inside line of the sidewalk on any street, a strongly constructed close boarded fence or barricade, not less than six feet high, shall be erected along the inside line of such sidewalk.

(3) No person shall place any stone, brick, lumber, or any building material, fence, barricade, or temporary sidewalk so as to obstruct the free passage of water in the drains, gutters or water courses; and the roofs of all covered ways shall be kept clear of any material whatever.

11. Nothing in this Act shall affect any by-law relating to the matters mentioned herein lawfully passed by a municipal council, or the authority of a municipal council, to pass any such a by-law, so far as such by-law imposes additional or more stringent requirements than those imposed by this Act.

12. The Ontario Summary Convictions Act shall apply to every prosecution under this Act.

13. Sections 7, 8 and 9 of this Act shall not apply to any building not more than two storeys in height nor to any farm building nor to any work being done upon a building by the owner or occupant thereof in person.

### Inspection and Regulation of Factories, Shops and Office Buildings. 273

Chapter 229 with amendment.—1. This Act may be cited as The Factory, Shop and Office Building Act.

#### Interpretation.

2. In this Act,

(a) "Bake-shop" shall mean any building, premises, workshop, structure, room or place wherein is carried on the manufacture or sale of confectionery, or of bread, biscuits, cakes, or any other food product made from flour, or from meal or from both, in whole or in part, and shall include any room or rooms used for storing the confectionery, bread, biscuits, cakes and other food products and materials.

(b) "Child" shall mean a person under the age of fourteen years.

(c) "Court" shall mean the Justices of the Peace or Police Magistrate, as the case may be, to whom jurisdiction is given by this Act to hear and determine prosecutions under this Part.

(d) "Employer" as applied to a factory or shop shall mean any person who in his own behalf, or as the manager, superintendent, overseer, or agent, has charge of any factory, shop or bakeshop and employs persons therein, and in the case of an office building shall include the superintendent, manager or caretaker thereof.

(e) "Factory" shall mean:

(i) Any building, workshop, structure or premises of the description mentioned in Schedule A, together with such other buildings, structures or premises as the Lieutenant-Governor in Council may by proclamation declare to be factories within the meaning of this Part;

(ii) Any other building, workshop, structure, premises, room or place wherein, or within the precincts of which, steam, water, electrical power or energy, or other power is used to move or work any machinery employed in preparing, manufacturing or finishing, or in any process incidental to the preparing, manufacturing or finishing of any article, substance, material, fabric or compound, or is used to aid the manufacturing process carried on there;

(iii) Any other building, workshop, structure, premises, room or place wherein the employer of the persons working there has the right of access and control, and in which, or within the precincts of which, any manual labour is exercised by way of trade or for purposes of gain in or incidental to the making of any article, or part of any article, the altering, repairing, ornamenting or finishing of any article, or, the adapting for sale of any article.

(f) "Inspector" shall mean an Inspector appointed by the Lieutenant-Governor in Council for enforcing the provisions of this Part and shall include the Chief Inspector.

(g) "Mill-gearing" shall include every shaft, whether upright, oblique or horizontal, and every wheel, drum, pulley or other appliance by which the motion of the first moving power is communicated to any machine appertaining to a manufacturing process.

(h) "Minister" shall mean the member of the Executive Council charged for the time being with the administration of this Part.

(i) "Office" shall include a building or that part of a building occupied and under the control of a separate employer and used for office purposes.

(j) "Office building" shall mean a building used or occupied for office purposes and not as a shop or factory, and shall include a part of a building when so used or occupied.

(k) "Owner" shall mean the person for the time being entitled in his own right or as a trustee, mortgagee in possession, guardian, committee, agent or otherwise to receive the rents, issues and profits of any premises used as a factory, shop, bakeshop or office building so far as such rents, issues and profits are not payable solely in respect of the use or occupancy of land apart from any buildings or other improvements erected or situate thereon.

(l) "Parent" shall mean a parent or guardian of, or a person having the legal custody of, or the control over, or having direct benefit from the wages of a child, youth or young girl.

(m) "Regulations" shall mean regulations made by the Lieutenant-Governor in Council under the authority of this Part.

(n) "Shop" shall mean any building or a portion of a building, booth, stall, or place where goods are handled, or exposed or offered for sale, and any such building, or portion of a building, booth, stall or place where goods are manufactured, and which is not a factory to which this Act applies; but shall not include any place where the only trade or business carried on is that of a licensed hotel or tavern.

(o) "Week" shall mean the period between midnight on Sunday night and midnight on the succeeding Saturday night.

(p) "Woman" shall mean a woman of eighteen years of age and upwards.

(q) "Young girl" shall mean a girl of the age of fourteen and under the age of eighteen years.

(r) "Youth" shall mean a male of the age of fourteen and under the age of sixteen years.

#### Application of Act.

3. (1) Nothing in this Part shall in any way conflict or interfere with the powers and duties of local boards of health or the officers appointed under "The Public Health Act."

(2) For the purposes of this Part in respect to sanitary measures, the Chief Officer of Health or any health officer may act jointly by, with or independently of the Inspector under this Part.

4. Nothing in this Part shall extend to a mechanic, artisan or labourer, working only in repairing either the machinery in, or any part of a factory, shop, bakeshop, or office building.

5. (1) A part of a building used as a factory, shop, bakeshop, or office building may with the written approval of an Inspector for the purposes of this Part be taken to be a separate factory, shop, bakeshop, or office building.

(2) A place used as a dwelling or sleeping room only shall not be deemed to form part of a factory, shop, bakeshop or office building for the purposes of this Part.

(3) Where a place situate within the close or precincts forming a factory is solely used for some purpose other than the manufacturing process or handicraft carried on in the factory, such place shall not be deemed to form part of that factory for the purposes of this Part, but shall, if otherwise it would be a factory, be deemed to be a separate factory, and be regulated accordingly.

(4) Any premises or place shall not be excluded from the definition of a factory by reason only that such premises or place are or is in the open air.

6. (1) Every shop, building or room in which one or more persons are employed in doing public laundry work by way of trade or for the purpose of gain shall be deemed a factory to which this Part applies.

(2) This section shall not apply to a dwelling in which a female is engaged in doing custom laundry work at her home for a regular family trade.

7. (1) Except as otherwise expressly provided this Part shall not apply to any factory where not more than five persons are employed, and no power other than manual labour is used in aid of the manufacturing process carried on there.

(2) A factory in which in any calendar year more than five persons are employed at any one time shall during that year be deemed a factory, unless the Inspector is satisfied that less than six persons are usually employed therein.

(3) This Part shall not apply to any shop where only members of the employer's own family dwelling in a house to which the shop is attached are employed at home.

8. (1) Where any owner, occupier or tenant of any premises, building, workshop, structure, room or place who has the right of access thereto, and control thereof, contracts for work or labour to be done therein by any other person, or lets or hires out any part thereof for that purpose, and such other person engages or employs therein any workman, child, youth, young girl, or woman in or for the carrying out or performing of such work or labour, or any part thereof, every such workman, child, youth, young girl or woman shall, for all the purposes of this Part, be deemed to be in the service and employment of such owner, occupier or tenant.

(2) In computing the number of persons employed in any place in order to ascertain if such place is a factory to which this Part applies, every such workman, child, youth, young girl or woman shall be counted.

9. (1) Every person found in a factory, except at meal times, or except while all the machinery of the factory is stopped, or for any other purpose than that of bringing food to the persons employed in the factory, shall, until the contrary is proved, be deemed for the purposes of this Part to have been then employed in the factory.

(2) Yards, playgrounds and places open to public view, waiting rooms, and other rooms belonging to the factory in which no machinery is used or manufacturing process carried on, shall not be taken to be part of the factory for the purposes of this section.

10. (1) A child, youth, young girl, or woman who works in a factory, whether for wages or not, either in a manufacturing process or handicraft, or in cleaning any part of the factory used for any manufacturing process or handicraft, or in cleaning or oiling any part of the machinery, or in any other kind of work whatsoever incidental to or connected with the manufacturing process or handicraft, or connected with the article made, or otherwise the subject of the manufacturing process or handicraft therein shall, save as is herein otherwise provided, be deemed to be employed in such factory.

(2) For the purpose of this section an apprentice shall be deemed to work for hire.

11. (1) In every factory and shop the employer shall keep a register of the children, youths, young girls and women employed in the factory and shop and of their employment, Forms 1 and 2 in Schedule "B," and shall send to the Inspector such extracts from any register kept in pursuance of this Part as the Inspector from time to time requires for the execution of his duties, and shall permit the Inspector at all times to inspect such register.

(2) For every contravention of this section the employer shall incur a penalty not exceeding \$30.

12. (1) On the first page of every register kept by an employer pursuant to this Part, or to the regulations made by the Lieutenant-Governor in Council, shall be printed the Form 4 in Schedule "B," and the same shall be properly filled up and signed by the Inspector and the employer, when such register is commenced to be kept.

(2) The forms of notice mentioned in Schedule "B" may be altered or modified by regulation of the Lieutenant-Governor in Council.

13. Where in a factory or shop the owner or hirer of a machine or implement moved by steam, water, electrical power or energy, or other power, in or about or in connection with which machine or implement any child, youth, young girl or woman is employed, is some person other than the employer, and such child, youth, young girl, or woman is in the employment and pay of the owner or hirer of such machine or implement, he shall, so far as respects any offence against this Part, which may be committed in relation to such child, youth, young girl, or woman, be deemed to be the employer.

14. Before erecting any building or altering any existing building which it is intended thereafter to use as a factory the owner shall submit the plans of such building or of the proposed alterations to the Inspector, and the Inspector shall examine the same and if he finds that the plans provide for the fulfilment of the requirements of this Act as to the construction of factories he shall certify his approval thereon, and the owner shall not proceed with the erection or alteration of such building without such approval.

15. (1) The owner, proprietor or manager of any factory shall not begin operations until he has received from the Inspector a certificate of inspection of the factory and a permit to operate the same.

(2) Any person who contravenes the provisions of this section shall incur the penalties provided for in section 72.

16. Every person shall, within one month after he begins to occupy a factory, transmit to the Inspector a notice, Form 7, Schedule "B," containing the name of the factory, the place where it is situate, the address to which he desires his letters to be addressed, the nature of the work, the nature and amount of the moving power therein, and the name of the firm under which the business of the factory is to be carried on, and in default shall incur a penalty not exceeding \$30.

#### Administration.

17. The Lieutenant-Governor in Council may for the purpose of carrying out this Part—

(a) appoint as many Inspectors, male or female, as may be deemed necessary, one of whom he may designate as Chief Inspector, who shall have the general supervision and direction of the other inspectors and of the carrying out of the provisions of this Part;

(b) make such regulations for carrying out the provisions of this Part, as may be deemed necessary.

18. (1) Every Inspector may, in the execution of this Act, and for enforcing the Regulations,

(a) enter, inspect and examine at all reasonable times by day or night any factory, shop, bakeshop or office building when he has reasonable cause to believe that any person is employed therein, and enter by day any place which he has reasonable cause to believe is a factory, shop, bakeshop or office building;

(b) require the production of any register, certificate, notice or document required by this Part to be kept, and inspect, examine and copy the same;

(c) take with him a constable into a factory, shop, bakeshop or office building in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty;

(d) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Part are complied with, so far as respects the factory, shop, bakeshop or office building and the persons employed therein;

(e) examine either alone or in the presence of any other persons, as he thinks fit, with respect to matters under this Part, every person whom he finds in a factory, shop, bakeshop or office building, or whom he has reasonable cause to believe to be, or to have been, within the two preceding months, employed in a factory, shop, bakeshop or office building, and require such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so examined;

(f) for the purpose of any investigation, inquiry or examination made by him under the authority of this Part, administer an oath to and summon any person to give evidence;

(g) exercise such other powers as may be necessary for carrying out the provisions of this Part.

(2) The owner and employer and his or their agents and servants, shall furnish all necessary means in his or their power required by the Inspector for any entry, inspection, examination, inquiry, or the exercise of his powers in relation to such factory, shop, bakeshop or office building.

(3) Every person who wilfully delays the inspector in the exercise of any power under this section, or who fails to comply with a requisition or summons of the Inspector in pursuance of this section, or to produce any certificate or document which he is required by or in pursuance of this Act to produce or who conceals or attempts to conceal, or prevents or attempts to prevent a child, youth, young girl or woman from

appearing before or being examined by the Inspector, shall be deemed to obstruct an Inspector in the execution of his duties under this Part.

(4) Where the Inspector is obstructed in the execution of his duties, the person obstructing him shall incur a penalty not exceeding \$30; and where he is so obstructed in a factory, shop, bakeshop or office building, the employer shall incur a penalty not exceeding \$30, or where the offence is committed at night, \$100.

(5) It shall be the duty of the inspectors appointed under this Act to assist in the enforcement of The Stationary and Hoisting Engineers' Act, to report to the Stationary and Hoisting Engineers' Board any violation thereof, and to furnish to the Board such information as they have as to the conduct and capability of any person holding or applying for a certificate. 1914, c. 40, s. 1.

19. Every Inspector shall be furnished with a certificate of his appointment, under the hand and seal of the Minister, and on applying for admission to any premises shall, if required, produce such certificate.

20. The Inspector, whenever he deems it necessary, may take with him into any premises a legally qualified medical practitioner, medical officer of health, or sanitary Inspector.

21. (1) The Inspector, before entering, in pursuance of the powers conferred by this Part, without the consent of the occupier, any room or place actually used as a dwelling, shall obtain such warrant as is hereinafter mentioned, from a Justice of the Peace.

(2) The Justice, if satisfied by information on oath, that there is reasonable cause to suppose that any provision of this Part is contravened in any such room or place, shall grant a warrant under his hand, authorizing the Inspector named therein, at any time not exceeding one month from the date thereof, to enter the room or place named in the warrant, and exercise therein the powers of inspection and examination conferred by this Act, and the provisions of this Part, with respect to obstruction of the Inspector, shall apply.

22. Where an Inspector is called as a witness, he may, by the direction and on behalf of the Attorney-General or of a member of the Executive Council, object to giving evidence as to any premises inspected by him in the course of his duty.

23. (1) There shall be affixed at the entrance of a factory, and in such other convenient parts of every factory, shop, bakeshop and office building as the Inspector directs, and be constantly kept so affixed in the form directed by the Inspector and in such position as to be easily read by the persons employed:—

(a) Such notices of the provisions of this Part, and of any regulations made thereunder as the Inspector deems necessary to enable the persons employed to become acquainted with their rights, liabilities and duties under this Part;

(b) A notice of the name and address of the Inspector;

(c) In the case of a factory a notice of the clock (if any) by which the period of employment and times for meals in the factory are regulated;

(d) Every other notice and document, required by this Part to be so affixed.

(2) In the event of a contravention of any provision or requirement of this section, the employer shall incur a penalty not exceeding \$20, and any person who pulls down, alters or defaces any such notice, shall incur a like penalty.

24. (1) Any notice, order, requisition, summons or document required or authorized to be served or sent, for the purposes of this Part may be served or sent by delivering the same to or at the residence of the person on or to whom it is to be served or sent, or where that person is an employer, by delivering the same, or a true copy thereof, to his agent or to some person in the factory, shop, bakeshop or office building, of which he is employer.

(2) Such notice, order, requisition, summons or document may also be served or sent by post, and if so served or sent shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending, it shall be sufficient to prove that it was properly addressed and mailed; and where it is required to be served on or sent to an employer it shall be deemed to be properly addressed, if addressed to the factory, shop, bakeshop or office building in respect of which he is employer, with the addition of the proper postal address, but without naming the employer.

#### EMPLOYMENT.

##### Children, Youths, Young Girls and Women.

25. No child shall be employed in any factory, except in the business of canning or desiccating fruits or vegetables or the work incidental thereto as provided in section 26.

26. A child between the ages of twelve and fourteen years and, when employed solely out of doors, a child under twelve years of age may, notwithstanding anything

contained in this Part, be employed from the 15th day of June, to the 15th day of September, both inclusive, in such gathering and preparation of fruits or vegetables for canning or desiccating purposes as may be required to be done prior to the operation of cooking or other process requisite in connection with the canning or desiccating of fruits or vegetables.

27. No person under twelve years of age shall be employed in any shop.

28. The Lieutenant-Governor in Council may by proclamation, prohibit the employment of young girls and youths in factories, the work in which he deems dangerous or unwholesome.

29. No child shall be employed in any shop during school hours unless such child shall have furnished to the employer a certificate issued in accordance with the provisions of The Truancy Act permitting the absence of the child from school, and such certificate shall be kept on file by the employer and produced, whenever called for by the Inspector.

30. (1) In any shop in which young girls or women are employed the employer shall at all times provide and keep therein a sufficient and suitable chair or seat for the use of every such young girl or woman, and shall permit her to use such chair or seat when not necessarily engaged in the work or duty for which she is employed; and the employer shall not by any open or covert threat, rule, or other intimation, expressed or implied, or by any contrivance, prevent any female employee from using such chair or seat.

(2) Any person who contravenes any of the provisions of this section, shall incur a penalty of not less than \$10 nor more than \$25.

31. The place, room or apartment in which a child is employed under the provisions of section 26 shall be separate from any other wherein the cooking or other process in connection with or in the canning or desiccating of fruits or vegetables is carried on.

31a. No Chinese person shall employ in any capacity or have under his direction or control any female white person in any factory, restaurant or laundry.

(2) Subsection 1 shall not come into force until a day to be named by proclamation of the Lieutenant-Governor in Council.<sup>1</sup> 1914, c. 40, s. 2.

#### Hours of Employment.

32. Except as provided in sections 33, 34 and 35, in a factory or shop—

(a) no child, youth, young girl or woman shall be employed for more than ten hours in one day, unless a different apportionment of the hours of labour per day has been made for the sole purpose of giving a shorter day's work on such day of the week as may be arranged, nor shall any such person be so employed for more than sixty hours in any one week.

(b) the hours of labour for any such person in any one day shall not be earlier than seven o'clock in the forenoon or later than half-past six o'clock in the afternoon, in a factory or six o'clock in the afternoon in a shop, unless a special permit in writing is obtained from the Inspector.

(c) no child, youth, young girl or woman who has been previously on any day employed in any factory or shop for the number of hours permitted by this Part, shall, to the knowledge of the employer, be employed on the same day in any other factory or shop, and no such person who has been so employed in a factory or shop for less than such number of hours shall be employed in any other factory or shop on the same day for a longer period than will complete such number of hours.

(d) The employer shall allow every child, youth, young girl or woman not less than one hour at noon of each day for meals, and such hour shall not be counted as part of the time herein limited for the employment of any such person.

33. A child between twelve and fourteen years of age, and a youth, young girl or woman may be employed in a shop between the hours of seven o'clock in the morning and ten o'clock in the afternoon on Saturday and the day next before a statutory holiday, and during the period from the 14th day of December to the 24th day of December, both inclusive, in each year.

34. (1) Subject to the Regulations, where

(a) any accident which prevents the working of a factory happens to the motive power; or

(b) from any other occurrence beyond the control of the employer the machinery, or any part of the machinery, of any factory cannot be regularly worked; or

(c) the customs or exigencies of trade require that the youths, young girls or women working in a factory, or in certain processes in a factory, shall be employed for longer than the prescribed period, the Inspector may, on proof to his satisfaction of such accident, occurrence, custom or exigency of trade, give permission in writing for such exemption from the observance of the foregoing provisions as will, in his judgment, fairly and equitably to the employers of, and to the youths, young girls and women in such factory, make up for any loss of labour from such accident or occurrence, or meet the requirements of such custom or exigency of trade;

<sup>1</sup> Subsection 1 of section 31a has not come into force.

(2) If the Inspector permits such exemption,  
 (a) no youth, young girl or woman shall be employed before the hour of six o'clock in the morning nor after the hour of nine o'clock in the afternoon;

(b) the hours of labour for youths, young girls and women shall not be more than twelve and a half in any one day, nor more than seventy-two and a half in any one week;

(c) such exemption shall not comprise more than thirty-six days, in the whole, in any twelve months; and in reckoning such period of thirty-six days, every day on which the youth, young girl, or woman has been employed overtime shall be taken into account;

(d) during the continuance of such exemption, in addition to the hour for the noonday meal, there shall be allowed to every youth, young girl or woman so employed in the factory on any day to an hour later than seven of the clock in the afternoon, not less than forty-five minutes for another meal between five and eight of the clock in the afternoon; and

(e) in every factory with respect to which any such permission for exemption is given, there shall, in compliance with the provisions of section 23, be affixed a notice specifying the extent and particulars of such exemption.

35. (1) Women may be employed to a later hour than half-past six o'clock in the afternoon during the months of July, August, September and October in a factory where the only work or operations carried on relate to and are exclusively such as may be necessary for the canning or desiccating of fruits or vegetables, and the preparation thereof for that purpose.

(2) No woman shall be so employed to a later hour than nine o'clock in the afternoon for more than twenty days in the whole, and in reckoning such twenty days, every day on which she has been so employed to a later hour than nine o'clock in the afternoon shall be counted.

(3) Where a woman is so employed on any day to a later hour than seven o'clock in the afternoon, she shall, in addition to the hour for the noonday meal provided for by section 32, be allowed not less than forty-five minutes for another meal between five and eight of the clock in the afternoon.

36. The hours of labour for a child between twelve and fourteen years of age in a canning factory shall be limited to the time between seven o'clock in the forenoon and six o'clock in the afternoon, or such other hours of the day as may be permitted by the Inspector; but no such child shall be allowed to work more than eight hours in any one day. 1914, c. 40, s. 3.

37. Where any youth, young girl or woman is employed in any factory for a longer period, or until a later hour than is prescribed by sections 34 and 35, the duration of such employment shall be daily recorded by the employer in a register, Form 3 of Schedule "B," or in such other form as may be prescribed by the Regulations.

38. Notice of the hours between which children, youths, young girls or women may be employed in a factory shall be in Form 5, Schedule "B," or in such other form as may be prescribed by the Regulations, and shall be signed by the Inspector and by the employer, and shall be posted up during the period covered by such notice in such conspicuous place or places in the factory as the Inspector requires.

#### Meals on Premises.

39. In a factory or shop in which any child, youth, young girl or woman is employed,

(a) if the Inspector so directs in writing, the employer shall not allow any such person to take meals in any room in which any manufacturing process is then being carried on.

(b) after being directed by the Inspector in writing so to do, the employer shall, at his own expense, provide a suitable room or place in the factory or shop or in connection therewith, for the purposes of a dining and eating room for persons employed in the factory or shop, no part of the expense of which shall be payable by or chargeable to the wages of the employees.

(c) no person shall take or be allowed to take food into any room where paint, varnish, dye, white lead, arsenic, or any other poisonous substance is exposed, or where deleterious fumes, dust or gases are known to be present, and drinking water in any such room shall be taken directly from taps or suitably closed receptacles.

40. Where a child, youth, young girl or woman, is employed in a factory or shop in which there is a contravention of any of the provisions of sections 32 to 36, or of any regulation made under section 34, such child, youth, young girl or woman shall be deemed to be unlawfully employed and so that his or her health is likely to be injured.



HEALTH AND SAFETY.

Sanitary Regulations.

41. (1) The owner of every building used as a factory, shop or office building shall:  
(a) provide a sufficient number and description of privies, earth or water-closets and urinals for the employees of such factory, shop, or office building, including separate sets for the use of male and female employees, with separate approaches thereto, one closet for every 25 persons of each sex employed in the factory, shop or office building, and shall keep at the entrance to such closet a clearly painted sign indicating for which sex the closets are provided;

(b) be responsible for the remedying of any effluvia arising from any drain, or defective plumbing and for any repairs required to keep the building in a safe and habitable condition;

(c) Arrange for a supply of pure drinking water available for each occupier.

(2) The Lieutenant-Governor in Council may prescribe such additional regulations with respect to such conveniences as may be deemed proper.

(3) The owner of every factory, shop or office building, who for thirty days, or such extended period as the Inspector in writing allows, refuses or neglects to comply with the requirements of subsection 1, or of the Regulations, after being notified in writing in regard to the same by the Inspector, shall incur a penalty of not more than \$500, and in default of payment shall be liable to imprisonment for any period of not more than twelve months.

42. A factory, shop or office building in which a contravention of the regulations made by The Hydro-Electric Power Commission of Ontario under The Power Commission Act occurs, shall be deemed to be kept so that the safety of the persons employed therein is endangered.

43. (1) The employer of every factory or shop shall

(a) keep it in a clean and sanitary condition and free from any effluvia arising from refuse of any kind;

(b) keep privies, earth or water-closets and urinals in good repair and in a sanitary condition, and keep closets separated for male and female employees, and provide conveniences to the satisfaction of the Inspector for the employees using them;

(c) heat the premises throughout and regulate the temperature so as to be suitable for the work to be performed therein, and not to be injurious to the health or comfort of the employees; but in no case shall the temperature be less than 60 degrees Fahrenheit unless authorized by the Inspector in writing;

(d) ventilate the factory or shop in such a manner as to keep the air reasonably pure and so as to render harmless, as far as reasonably practicable, all gases, vapours, dust or other impurities generated in the course of any manufacturing process or handicraft carried on therein that may be injurious to health;

(e) not allow overcrowding while work is carried on therein, so as to be injurious to the health of the persons employed therein, the standard to be allowed being 300 cubic feet of room space for each employee;

(f) provide a wash-room, clean towels, soap and a sufficient supply of wholesome drinking water and proper drinking cups for employees, and water-taps which shall be at least eight feet distant from any water-closet or urinal, and also in the case of a foundry shower baths for the employees; and

(g) if the manufacturing process carried on in any part of the premises renders the floor liable to be wet to such an extent that the health of any person employed therein is likely to be endangered, see that adequate means are provided for the proper draining of such floors.

(2) The Inspector may require the employer of any factory or shop to provide a sufficient number of spittoons and place the same in different parts of the premises, and keep the same clean.

(3) In every factory or shop where any process is carried on by which dust is generated and is inhaled by the workers to an injurious extent, then, subject to the regulations, the Inspector may, if such inhalation can by mechanical means be prevented or partially prevented, direct that such means shall be provided within a reasonable time by the employer, who shall be bound so to provide them.

(4) Where grinding, polishing or buffing is carried on in any factory or shop subsection 3 shall apply irrespective of the number of persons employed therein.

(5) No employer shall knowingly permit or suffer any person to work in a factory or shop in which food or food products or materials are manufactured, stored, or kept for sale or sold who is affected with pulmonary tuberculosis or with scrofula, or with any venereal disease or with any communicable skin disease, and every employer shall keep himself and his employees in a reasonably healthy condition.

(6) The employer of a factory or shop, who for thirty days refuses or neglects to comply with the requirements of this section, or with the regulations, after being

notified in writing in regard to the same by the Inspector shall incur a penalty of not more than \$500, and in default of payment shall be liable to imprisonment for a period of not more than twelve months.

(7) The Lieutenant-Governor in Council may make regulations for the more effectual carrying out of the provisions of this section. 1914, c. 40, s. 4.

44. (1) Every employer of an office shall:

(a) see that the office is kept in a clean and sanitary condition and properly ventilated, heated and lighted so as not to be injurious to the health or comfort of the persons employed therein.

(b) not allow overcrowding, so as to be injurious to the health of the persons employed therein;

(c) provide a supply of clean towels, soap and a sufficient supply of wholesome drinking water and proper drinking cups for the persons employed therein.

(2) Where in an office building the privies, closets or urinals or other conveniences are not situate in that part of the building occupied by and under the control of an employer it shall be the duty of the owner, and where such conveniences are situate in that part of the building occupied by and under the control of a separate employer it shall be the duty of such employer to keep the same in good repair and in a sanitary condition.

(3) The owner of every office building shall at all times keep the same or such parts thereof as are used in common by the tenants or occupants thereof and are under his control, in a clean and sanitary condition, and so as not to be injurious to the health of persons employed in the building or using or having access to the same.

(4) Every owner or employer, who for thirty days or for such extended period as the Inspector allows, refuses or neglects to comply with the requirements of this section after being notified in writing in regard to the same by the Inspector, shall incur a penalty not exceeding \$500, and in default of payment shall be liable to imprisonment for any period of not more than twelve months.

45. Where an owner is required by or under the provisions of this Act to do anything which as between him and his tenant it is not his but the tenant's duty to do, he shall be entitled to recover from the tenant the amount of any expenditure incurred in doing it.

46. Where two or more persons occupy or use the same room or premises as a factory, and employ in the aggregate six persons or more, no one of them employing so many as six, such room or premises shall for the purposes of sections 41 and 43 be deemed a factory to which this Part applies.

47. Without the written consent of the Inspector no part of a factory shall be kept or used as a bedroom or sleeping place.

48. The provisions of section 47 shall not apply to a laundry in which not more than five persons are employed.

49. No public laundry work shall be done in a room used for a sleeping or living room, or in a room used for cooking or preparing meals.

50. The provisions of section 49 shall not apply to a female engaged in doing custom laundry work at her home for a regular family trade.

51. A stable shall not be kept or used under the same roof as a factory or bakeshop, unless there is between the stable and the factory or bakeshop a sufficient brick or other partition wall approved by the Inspector separating the one from the other.

#### Clothing Manufacturers. *W E W*

52. (1) Every person contracting for the manufacture of any garment, article of clothing or wearing apparel or any part thereof, or giving out the same to be wholly or partially altered or improved, or giving out for manufacture, alteration or improvement, material from which the same are to be made up or completed, shall keep a written register of the name and address serially numbered of every person so contracted with, or to whom any such garment, article or material is so given out, and of the places where the work is to be done.

(2) The register shall at all times be open to inspection by the Inspector, and the person required to keep it shall furnish a copy of the register to the Inspector whenever demanded by him.

(3) No person shall knowingly sell or expose for sale any of the garments or articles mentioned in this section and made in any dwelling house, tenement house or building forming part of or in the rear of a tenement or dwelling house, without a permit from the Inspector, stating that the place of manufacture is thoroughly clean and otherwise in a good sanitary condition.

(4) Such permit shall state the maximum number of persons allowed to be employed upon the premises, and shall not be granted until an inspection thereof has been made by the Inspector, and the permit may be revoked by the Inspector at any time, if, in his opinion, the protection of the health of the community, or of those so employed upon the premises, renders such revocation desirable.

(5) When any such garment or article is found by the Inspector to be made under unclean or unhealthy conditions, or upon any premises not entered on the register, he shall seize and impound the same and affix thereto a label bearing the word "unsanitary" printed on a tag not less than four inches in length; and shall immediately notify the local Board of Health, whose duty it shall be to disinfect it, and thereupon remove such label.

(6) The owner of any such garment or article shall be entitled after it has been disinfected, to have the same returned to him upon first paying the expense of such seizure and disinfection.

(7) If the Inspector finds evidence of unclean or unhealthy conditions, or infectious or contagious disease present in any workshop, or in any tenement or dwelling where any of the garments or articles hereinbefore mentioned are made, altered or improved, or in any goods manufactured or in process of manufacture on such premises, he shall forthwith report the facts to the local Board of Health, which shall forthwith make such order as the public health may require, or may condemn and destroy all such garments or articles, or any garment or article made, altered or improved, or in process of manufacture under unclean or unsanitary conditions.

#### • Female Employees—Mode of Wearing Hair.

53. (1) Young girls and women in a factory shall, during working hours, wear their hair rolled or plaited and fastened securely to their heads, or confined in a close-fitting cap or net so as to avoid contact with machinery, shafting or belting or with the material being handled.

(2) The manager, superintendent, foreman or other person in charge shall see that employees are fully notified of the provisions of this section.

#### Cleaning Machinery.

54. (1) A child shall not be allowed to clean any part of the machinery in a factory while the same is in motion.

(2) A youth, young girl or woman shall not be allowed to clean such part of the machinery in a factory as is mill-gearing, while the same is in motion.

(3) A child or a young girl shall not be allowed to work between the fixed and traversing part of any self-acting machine while the machine is in motion.

(4) A child, youth, young girl, or woman, allowed to clean or work in contravention of this section, shall be deemed to be employed contrary to the provisions of this Part.

#### Guarding Machinery.

55. (1) In every factory:

(a) all mill-gearing, vats, pans, cauldrons, reservoirs, wheel races, flumes, water-channels, openings and doors opening in the floors or walls, bridges, and dangerous machinery, shafting, or belting, and all other dangerous structures and places, shall be as far as practicable securely fenced or guarded;

(b) no machinery other than steam engines shall be cleaned while in motion, if the Inspector gives written notice to the employer to that effect;

(c) any matter or thing which the Lieutenant-Governor in Council by regulation requires to be fenced or guarded shall be securely and safely guarded.

(d) any other matter or thing which the Inspector considers dangerous, and in regard to which he gives notice in writing to that effect to the employer, shall likewise be securely fenced or guarded to the satisfaction of the Inspector.

(2) The Lieutenant-Governor in Council may make regulations prescribing the manner in which any of the matters or things mentioned in subsection 1, shall be fenced or guarded, and the class of fence or guard to be used on any such machinery or about any such structure or place, in any factory or class of factories, and for such further precautions to be taken with respect to the matters mentioned in subsection 1, as he may deem necessary for preventing loss of life or personal injury.

(3) A factory in which a contravention of this section or of the regulations made thereunder occurs shall be deemed to be kept so that the safety of persons employed therein is endangered.

56. (1) Where coal oil, petroleum, benzine, naphtha, gasoline or explosives of any kind, or any combustible or inflammable material are kept or stored in a factory or shop they shall be kept stored when not in actual use, in a building separate from the other parts of the factory or shop, or in a fireproof compartment of the factory or shop, which shall be approved of by the Inspector.

(2) The Lieutenant-Governor in Council may add to the articles mentioned in subsection 1, any inflammable or combustible material to which he deems it expedient that the provisions of subsection 1 should apply, and he may also prescribe the maximum quantity of any of the articles mentioned in subsection 1 or in the Regulations, which may at any time be in actual use in the factory or shop.

(3) A factory or shop in which a contravention of this section or of any regulations made thereunder occurs shall be deemed to be kept so that the safety of the persons employed therein is endangered.

#### Boiler Insurance and Inspection.

57. (1) In a factory, shop or office building no boiler shall be used that is not insured in some boiler insurance company, registered in the Department of Insurance, or that has not been inspected within one year by a competent person who has had charge of a boiler and engine for a period not less than five years, or who holds a certificate as a stationary engineer, and the owner or employer shall, whenever so requested by the Inspector, produce for examination the insurance policy or certificate of inspection.

(2) Every such boiler insurance company shall, annually, on the 30th day of November transmit to the Chief Inspector a report of the boilers in Ontario insured by it, and when an insurance is cancelled the company shall forthwith give notice thereof to the Chief Inspector.

(3) Whenever the Inspector is of opinion that a boiler in use in any factory, shop or office building is in such a condition or is so located or operated as to be dangerous to life or property, he may by written notice to the owner and employer direct that the use of the boiler shall be discontinued until it has been inspected by some competent person approved by the Inspector, and a certificate has been given by him that the boiler may be safely operated.

(4) A factory, shop or office building in which a boiler is used in contravention of the requirements of this section or after such notice from the Inspector and before a certificate has been given as provided by subsection 3, shall be deemed to be kept so that the safety of the persons employed therein is endangered.

(5) From and after the first day of July, 1914, this section shall apply to all boilers except those in residential buildings other than apartment houses, and except those used for agricultural purposes. 1914, c. 40, s. 5.

#### Elevators and Hoists.

58. (1) Subject to the regulations in every factory, shop and office building:

(a) the openings of the hoistway, hatchway, and well-hole used for every power elevator shall, at each floor, including the basement, be provided with and protected by good and sufficient trap doors or self closing hatches or, in the case of an elevator not operated by hand power, by gates closing automatically, not less than five feet six inches high and which may be made in sections;

(b) the sides of the shafts on all floors including the basement, not guarded by gates, shall be protected by enclosures at least six feet high, approved by the Inspector;

(c) where any elevator is enclosed in a tower having walls over six inches thick it may be provided with an extra operating rope outside the tower;

(d) in every case the elevator must be provided with a lock to secure the operating rope;

(e) where an elevator is operated by hand power the gates shall not be less than three feet in height and shall be automatic closing gates, and the sides not protected by gates shall be protected by enclosures not less than four feet in height approved by the Inspector;

(f) a sign on which the word "Dangerous," in letters not less than four inches in height is clearly painted, shall be affixed or stencilled on the bottom rail of every gate where it will be plainly visible from the outside;

(g) the top of every elevator platform shall be provided with a sufficient guard to protect the occupants, approved by the Inspector.

(h) every elevator, whether used for freight or passengers, shall be provided with some suitable mechanical device to be approved by the Inspector, whereby the car or cab will be stopped and held in case of accident to the elevator or to the machinery or appliances connected therewith.

(2) The Lieutenant-Governor in Council may by regulation prescribe such requirements in addition to or in substitution for the requirements of subsection 1, with respect to the use of elevators and hoists in factories, shops or office buildings, or in any class of factories, shops or office buildings.

(3) Every owner or employer who after notice from the Inspector uses or permits to be used any elevator or hoist in respect of which the provisions of this section are not complied with shall incur a penalty not exceeding \$500, and in default of payment thereof shall be liable to imprisonment for any period not exceeding twelve months.

(4) Nothing in this section shall take away or interfere with the powers possessed by municipal councils under The Municipal Act in respect of hoists or elevators.

(5) In a factory, shop or office building no person under the age of eighteen years shall be allowed regularly to operate or control an elevator. 1914, c. 40, s. 6.

## Fire Prevention and Protection.

59. (1) In every factory, shop or office building, there shall be such means of prevention and protection from fire and of extinguishing fire as the Inspector, acting under the regulations, directs in writing;

(2) In every factory and office building and in every shop in which more than fifteen persons are employed at any time during the year the main inside and outside doors for the use of the employees shall open outwardly, and any door leading to or being the principal or main entrance for employees or leading to any tower stairway or fire-escape shall not be bolted, barred or locked at any time during the ordinary and usual working hours

(3) The owner of every factory, shop or office building over two storeys in height, and where deemed necessary by the Inspector; the owner of every factory, shop or office building over one storey in height, shall provide one or more systems of fire escape, and shall keep the same in good repair, and to the satisfaction of the Chief Inspector, as follows:

(a) a sufficient number of tower stairways with iron doorways within reach of or having easy communication with all the working rooms;

(b) a sufficient number of iron or other unflammable fire escapes on the outside of the building, consisting of stairways with railing or if the approval of the Inspector is given in writing then of iron ladders, and every such stairway or ladder shall be connected with the interior of the building by iron or tinned doors or windows with iron shutters, and shall have suitable landings at every storey, including the attic, if the attic is occupied as a workroom, and the stairways shall start at a distance of not more than eight feet from the ground or pavement.

(4) The Lieutenant-Governor in Council may make Regulations for the more effectual carrying out of the provisions of this section and for the adoption of any system of fire escape in substitution for those above mentioned.

(5) The owner or proprietor of any factory, shop or office building refusing or neglecting to provide the means of safe exit in case of fire prescribed in this section, or by the Regulations made thereunder, shall incur a penalty of not more than \$500, and in default of immediate payment of the same shall be liable to imprisonment for a period of not more than twelve months.

(6) A factory, shop or office building in which a contravention of this section, or of any regulation made thereunder occurs, shall be deemed to be kept so that the safety of the persons employed therein is endangered.

## Notice of Accidents, Explosions and Deaths.

60. Where a fire or accident in any factory, shop or office building occasions any bodily injury to any person employed therein whereby he is prevented from working for more than six days next after the fire or accident, a notice in writing, Form 6, Schedule "B," shall be sent to the Chief Inspector by the employer forthwith after the expiration of such six days, and if such notice is not so sent the employer shall incur a penalty not exceeding \$30.

61. Where an explosion occurs in a factory, shop or office building, whether any person is injured thereby or not, the fact of such explosion having occurred shall be reported to the Chief Inspector in writing by the employer, Form 6, Schedule "B," within twenty-four hours next after the explosion takes place, and if such notice is not so sent, the employer shall incur a penalty not exceeding \$30.

62. Where in a factory, shop or office building any person is killed from any cause or is injured from any cause, in a manner likely to prove fatal, written notice of the accident, Form 6, Schedule "B," shall be sent to the Chief Inspector within twenty-four hours after the occurrence thereof, and if such notice is not so sent, the employer shall incur a penalty not exceeding \$30.

## Bake-Shops.

63. Every bake-shop shall be constructed and maintained as to lighting, heating, ventilation and drainage in such a manner as not to be dangerous or injurious to the health of any person working therein, and shall be kept at all times in a clean and sanitary condition, and so as to secure the manufacture and preservation of all food products and materials therein in a good and wholesome condition.

64. (1) Every bake-shop which is not within the provisions of this Part relating to factories or shops shall be provided with a proper washroom and a sufficient supply of clean towels and soap, and a closet and other conveniences for the health and comfort of the persons employed therein.

(2) The washroom, closets and other conveniences shall be separate from the bake-shop and shall be kept clean and in a sanitary condition.

65. (1) No bake-shop shall be kept in any basement or in any part of a building which is below the level of the street or road upon which the bake-shop is situate.

(2) This section shall not apply to any bake-shop established before the sixth day of May, 1913.

66. The sleeping places of the employees of every bake-shop shall be separate from the bake-shop, and no person shall sleep in a bake-shop.

67. Subsection 5 of section 43 and section 70 shall apply to every bake shop, whether the same is or is not a factory or shop within the provisions of this Part relating to factories and shops.

68. Every bake-shop, not being a factory or shop to which section 59 applies, shall be provided with proper means and facilities of escape in case of fire, to the satisfaction of the Inspector.

69. No person shall sell, expose or offer for sale, bread or buns manufactured out of Ontario without the written permission of an Inspector.

70. Except with the written permission of the Inspector, no person shall require, permit or suffer any employee in any bake-shop to work on Sunday, nor for more than twelve hours in any twenty-four hours, computed from the time when the employee commences to work, nor more than sixty hours in any one week, and a copy of such permission shall be posted up in a conspicuous place in the bake-shop.

#### Barber Shops.

71. (1) The proprietor of a barber shop shall not:

(a) require, permit or suffer any employee to work therein on Sunday;  
(b) open his barber shop or permit the same to be opened to the public; or carry on any business or work therein at any time between the hours of twelve o'clock on Saturday night and twelve o'clock on the following Sunday night.

(2) Every person who contravenes the provisions of subsection 1, shall incur a penalty of not less than \$20, nor more than \$50.

#### Offences and Penalties.

72. (1) No person shall keep a factory, shop or office building so that the safety of persons employed therein is endangered, or so that the health of the persons employed therein is likely to be injured, and every person who so keeps a factory, shop or office building shall incur a penalty of not more than \$500, recoverable under The Ontario Summary Convictions Act, or may be imprisoned in the common jail of the county within which the offence was committed for a period of not more than twelve months.

(2) The enumeration in this Part of cases in which it is declared that where an act or omission occurs, a factory, shop or office building shall be deemed to be kept so that the safety of the persons employed therein is endangered, shall not restrict or limit the generality of the provisions of subsection 1.

73. Every person who wilfully makes a false entry in any register, notice, certificate or document required by this Part to be kept or served, or sent, or who wilfully makes or signs a false declaration under this Act, or who knowingly makes use of any such false entry or declaration, shall incur a penalty of not more than \$100, and in default of immediate payment of such penalty shall be liable to imprisonment for a period not exceeding six months.

74. The parent of any child, youth or young girl employed in contravention of this Part, unless such employment is without the consent, connivance or wilful default of such parent, shall for each offence incur a penalty of not more than \$50.

75. If any of the provisions of this Part, or of the Regulations, or any directions of the Inspector are contravened, and no other penalty is herein provided for such contravention, the offender shall incur a penalty of not more than \$50.

76. Where a child, youth or young girl is, in the opinion of the police magistrate or justice, apparently of the age alleged by the informant it shall lie on the person charged to prove that the child, youth or young girl is not of that age.

77. Where an offence for which an employer is liable under this Part has in fact been committed by some agent, servant, workman or other person, such agent, servant, workman or other person shall also be liable to the same penalty or punishment for such offence as if he were the employer.

78. Where the employer is charged with an offence against this Part he shall be entitled, upon information duly laid by him, to have any other person whom he alleges to be the actual offender brought before the police magistrate or justice at the time appointed for hearing the charge; and if after the commission of the offence has been proved the employer proves to the satisfaction of the police magistrate or justice that he had used due diligence to enforce the execution of this Part, and that such other person had committed the offence without the knowledge, consent or connivance of the employer, such other person may be summarily convicted of such offence and the employer shall be exempt from any penalty or punishment.

79. Where it appears to the satisfaction of the Inspector that an employer had used all due diligence to enforce the execution of this Part, and also by what person an

offence against this Part was committed, and that it was committed without the knowledge, consent or connivance of the employer and in contravention of his orders, the Inspector shall proceed against the person whom he believes to be the actual offender in the first instance, and not against the employer, and in case of his conviction the employer shall be exempt from any penalty or punishment.

80. A person shall not be liable in respect of a repetition of the same kind of offence from day to day to any larger penalty or punishment than the highest penalty or punishment fixed by this Part for the offence, except where—

(a) the repetition of the offence occurs after an information has been laid for the previous offence; or

(b) the offence is one of employing two or more children, youths, young girls or women, contrary to the provisions of this Part.

81. All penalties in money, recovered under or in pursuance of this Part, shall be paid by the convicting police magistrate or justice, as the case may be, to the Inspector, who shall forthwith pay the same over to the Treasurer of Ontario.

82. (1) All prosecutions under this Part may be brought and heard before a police magistrate or any two justices in and for the county, district or place where the offence was committed; and save where otherwise provided by this Act, "The Ontario Summary Convictions Act" shall apply thereto.

(2) The information shall be laid within two months, or where the offence is punishable at discretion by imprisonment within three months after the offence has come to the knowledge of the Inspector, or where the Inspector has given notice to the offender to remedy the matter which is alleged to be an offence against this Part within three months after the expiry of the time given by the notice to remedy the same.

(3) It shall be sufficient to allege that a factory, shop or office building is a factory, shop or office building within the meaning of this Part.

(4) It shall be sufficient to state the name of the ostensible employer or the firm name by which the employer is usually known.

83. In all cases between employer and employed or their representatives where liability for damages arises by reason of any violation of this Part, the liability shall be subject to the limitations contained in "The Workmen's Compensation for Injuries Act."

#### MUNICIPAL BY-LAWS AS TO CLOSING OF SHOPS.

84. (1) In this section and in any by-law passed thereunder:

(a) "Shop" shall mean a building or portion of a building, booth, stall or place where goods are exposed or offered for sale by retail, and barbers' shops; but not where the only trade or business carried on is that of a licensed hotel or tavern, victualling house or refreshment house;

(b) "Closed" shall mean not open for the serving of any customer;

(2) Nothing in this section or in any by-law passed under the authority thereof shall render unlawful the continuance in a shop after the hour appointed for the closing thereof, of any customers who were in the shop immediately before that hour, or the serving of such customers during their continuance therein.

(3) The council of a city, town or village may by by-law require that during the whole or any part or parts of the year all or any class or classes of shops within the municipality shall be closed, and remain closed on each or any day of the week at and during any time or hours between seven of the clock in the afternoon of any day and five of the clock in the forenoon of the next following day.

(4) If an application is presented to such council praying for the passing of a by-law requiring the closing of any class of shops situate within the municipality, and the council is satisfied that such application is signed by not less than three-fourths in number of the occupiers of shops within the municipality and belonging to the class to which such application relates, the council shall, within one month after the presentation of such application, pass a by-law giving effect thereto and requiring all shops within the municipality belonging to the class specified in the application to be closed during the period of the year and at the times and hours mentioned in subsection 3 as are named in the application. 1914, c. 2, s. 4, Schedule (36).

(5) If the application is delivered to the clerk of the council it shall be deemed to have been presented to and received by the council.

(6) The council of every township shall, with respect to any portion of such township designated in the by-law, have all the rights and powers conferred by this section on the council of a city, town or village, and may pass by-laws which shall apply only to that portion of the township so designated.

(7) The council may by by-law make regulations as to the form of the application and as to the evidence to be produced respecting the proportion of persons signing the same and as to the classification of shops for the purposes of this section, and it shall not be compulsory upon the council to pass such by-law unless and until all such regulations have been duly observed.



(8) Every such by-law shall take effect at a date named therein, being not less than one nor more than two weeks after the passing thereof, and shall before that date be published in such manner as to the council passing the by-law may appear best fitted to insure the publicity thereof.

(9) A council shall not repeal a by-law passed pursuant to subsection (4) except as provided in the next following subsection.

(10). If at any time it is made to appear to the satisfaction of the council that more than one-third in number of the occupiers of shops to which any by-law passed by the council under the authority of subsection (4) relates, or of any class of such shops, are opposed to the continuance of such by-law the council may repeal the by-law, or may repeal the same in so far as it affects such class; but any such repeal shall not affect the power of the council to thereafter pass another by-law under any of the provisions of this section.

(11) A shop in which trades of two or more classes are carried on shall be closed for the purpose of all such trades during the hours in which it is by any such by-law required to be closed for the purpose of that one of such trades which is the principal trade carried on in such shop.

(12) A pharmaceutical chemist or druggist shall not, nor shall any occupier of, or person employed in or about a shop in any village or township be liable to any penalty or punishment under any such by-law for supplying medicines, drugs or medical appliances after the hour appointed by such by-law for the closing of shops; but nothing in this subsection shall authorize any person to keep open shop after that hour.

(13) Nothing in any such by-law shall render the occupier of any premises liable to any penalty or punishment for supplying any article to any person lodging in such premises, or for supplying any article required for immediate use by reason of any emergency arising from sickness, ailment or death, or for supplying or for selling any article to any person for use on or in or about or with respect to any steamboat or sailing vessel which at the time of such supplying or selling is either within or in the immediate neighbourhood of the municipality in which the premises are situate, or for use by or with respect to any person employed or engaged on or being a passenger on or by any such steamboat or sailing vessel; but nothing in this subsection shall authorize any person to keep open shop after the hour appointed by such by-law for the closing of shops.

(14) A by-law passed by the council of a township for the closing of all or any class or classes of shops may, as to any or all of its terms and provisions, differ from any other by-law passed by the same council for the closing of all or any class or classes of shops in any other designated part of the same township.

(15) Notwithstanding that the occupiers of any class of shops required to be closed by a by-law passed under the provisions of subsection (4) may not have presented an application for the passing of such by-law every such by-law shall, nevertheless, be valid and effectual as respects any other, and the occupiers of any other class of shops thereby required to be closed in conformity with any application in that behalf made or presented to the council by the prescribed number of occupiers of such last mentioned class.

(16) The onus of proving that an application in compliance with subsection (4) was not presented by the prescribed number of the occupiers of any class of shops shall be upon the person asserting that such application was not so presented.

(17) For an offence for which the occupier of a shop is liable under any such by-law to any penalty or punishment has in fact been committed by some agent or servant of such occupier such agent or servant shall be liable to the same penalty or punishment as if he were the occupier.

(18) Where the occupier of a shop is charged with an offence against any such by-law he shall be entitled, upon information duly laid by him, to have any other person whom he alleges to be the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier proves to the satisfaction of the Court that he has used due diligence to enforce the execution of the provisions of the by-law, and that such other person committed the offence without his knowledge, consent or connivance, such other person may be summarily convicted of such offence and shall be liable to the same penalty or punishment as if he were the occupier, and the occupier shall be exempt from any penalty or punishment.

(19) The provisions of "The Municipal Act" as to the penalties which may be imposed for contravention of by-laws and the recovery thereof shall apply to by-laws passed under this section.

SCHEDULE A.

(Section 2.)

|                                      |  |
|--------------------------------------|--|
| Agricultural Implement Factories.    | Cork Factories.                                |
| Apple Evaporator Factories.          | Corset Factories.                              |
| Artificial Flower Factories.         | Corset and Hoopskirt Steel Factories.          |
| Auger Factories.                     | Cotton Factories.                              |
| Axle and Spring Factories.           | Cutlery Factories.                             |
| Bakehouses and Bakeshops.            | Distilleries.                                  |
| Baking Powder and Yeast Factories.   | Domestic Utensils Factories.                   |
| Barb Wire Factories.                 | Dress Shield Factories.                        |
| Barrel Factories.                    | Drop Forging Factories.                        |
| Basket Factories.                    | Dye Works.                                     |
| Bell Factories.                      | Edge Tool Factories.                           |
| Billiard Table Factories.            | Electric Machinery Factories.                  |
| Bindertwine Factories.               | Electrotype Foundries.                         |
| Bird Cage Factories.                 | Elevator Factories.                            |
| Biscuit Factories.                   | Emery Wheel Factories.                         |
| Blacking Factories.                  | Enamelling Works.                              |
| Blanket Factories.                   | Envelope Factories.                            |
| Boat and Canoe Factories.            | Extracts and Essential Oil Factories.          |
| Boiler Factories.                    | Excelsior Factories.                           |
| Bolt and Nut Factories.              | Featherdown Factories.                         |
| Book-binding Factories.              | Felt Factories.                                |
| Boot and Shoe Factories.             | File Works.                                    |
| Box Factories.                       | Fire Works Factories.                          |
| Brass Foundries.                     | Flax Mills.                                    |
| Breweries.                           | Flour Mills.                                   |
| Brick Yards.                         | Foundries.                                     |
| Broom Factories.                     | Fringe and Tassel Factories.                   |
| Brush Factories.                     | Fruit and Desiccating Factories.               |
| Buffalo Robe Factories.              | Furniture Factories.                           |
| Bustle and Hoopskirt Factories.      | Furriers' Workshops.                           |
| Button Factories.                    | Galvanized and Pressed Iron Work Factories.    |
| Canning Factories.                   |  |
| Cap Factories.                       | Gas and Electric Light Works.                  |
| Carpet Factories.                    | Glass Works.                                   |
| Carriage Factories.                  | Glove Factories.                               |
| Carriage Goods (iron) Factories.     | Glucose Factories.                             |
| Carriage Woodwork Factories.         | Gun and Small Arm Factories.                   |
| Cartridge Factories.                 | Hair Factories.                                |
| Car Shops.                           | Hair Cloth Factories.                          |
| Cement Works.                        | Hames Factories.                               |
| Cereal Food Factories.               | Hammer Factories.                              |
| Chain Works.                         | Hat Factories.                                 |
| Chamois Factories.                   | Hinge Factories.                               |
| Cheese Box Factories.                | Horn Comb Factories.                           |
| Chemical Works.                      | Hobby Horse Factories.                         |
| Chewing Gum Factories.               | Hosiery Factories.                             |
| Chicle Works.                        | Iron Bridge Works.                             |
| Child's Carriage Factories.          | Jams, Jellies and Pickle Works.                |
| Cider Factories.                     | Jewellery Factories.                           |
| Cigar Factories.                     | Kaoka Factories.                               |
| Cigar Box Factories.                 | Knitting Factories.                            |
| Clay Pipe Factories.                 | Knitting Machine Factories.                    |
| Clock Factories.                     | Knitting Needle Factories.                     |
| Clothing Factories.                  | Lace Factories.                                |
| Coal-hoisting Plants.                | Lamp Goods Factories.                          |
| Coffin Factories.                    | Last Factories.                                |
| Condensing Cream and Milk Factories. | Laundries.                                     |
| Confectionery Factories.             | Laundry, Bluing and Washing Crystal Factories. |
| Coopers' Workshops.                  |  |

|                                       |                                    |
|---------------------------------------|------------------------------------|
| Lead Pipe and Shot Factories.         | Saddlery Hardware Factories.       |
| Leather Goods Factories.              | Safe Works.                        |
| Linen, Cotton and Jute Bag Factories. | Salt Drying Works.                 |
| Lithographers' Workshops.             | Sash and Door Factories.           |
| Lock Factories.                       | Saw Factories.                     |
| Locomotive Works.                     | Saw Mills.                         |
| Machine Shops.                        | Scale Works.                       |
| Machine Screw Works.                  | Seed-sorting Works.                |
| Mantle Piece Factories.               | Sewer Pipe Factories.              |
| Marble Works.                         | Sewing Machine Works.              |
| Match Factories.                      | Shirt Factories.                   |
| Matting Factories.                    | Shoddy Factories.                  |
| Mattress Factories.                   | Shovel Factories.                  |
| Meat-packing Houses.                  | Show Case Factories.               |
| Metallic Shingle Factories.           | Silk Factories.                    |
| Mica Works.                           | Silk Ribbon Factories.             |
| Mill Furnishing Factories.            | Silverware Factories.              |
| Millinery Workshops.                  | Skate Works.                       |
| Mirror Factories.                     | Soap Works.                        |
| Moccasin Factories.                   | Soda Water Factories.              |
| Nail Works.                           | Spice and Coffee Mills.            |
| Necktie Works.                        | Spoke and Hub Factories.           |
| Oil Mills.                            | Spool Factories.                   |
| Oil Refineries.                       | Stained Glass Factories.           |
| Oilcloth Factories.                   | Starch Factories.                  |
| Organ Factories.                      | Stave Factories.                   |
| Organ Reed Factories.                 | Stav Factories.                    |
| Ornamental Moulding Factories.        | Steel Wire Factories.              |
| Overgaiter Factories.                 | Straw Works.                       |
| Paint Works.                          | Sugar Refineries.                  |
| Paper Bag Factories.                  | Suspender Factories.               |
| Paper Box Factories.                  | Syrup Factories.                   |
| Paper Collar Factories.               | Tanneries.                         |
| Paper and Pulp Mills.                 | Tent and Awning Factories.         |
| Paraffine Factories.                  | Terra Cotta Works.                 |
| Patent Medicine Factories.            | Thread Spooling Factories.         |
| Photographic Supplies Factories       | Tin Stamping Works.                |
| Piano Factories.                      | Tobacco Factories.                 |
| Piano and Organ Keyboard Factories.   | Toy Factories.                     |
| Picture Frame Works.                  | Trunk Factories.                   |
| Pin Factories.                        | Tub and Pail Works.                |
| Planing Mills.                        | Type Foundries.                    |
| Plated Metal Works.                   | Typewriter Factories.              |
| Polish Factories.                     | Umbrella Works.                    |
| Plush Factories.                      | Varnish Works.                     |
| Potteries.                            | Velocipedes and Bicycle Factories. |
| Printing Ink Factories.               | Veneer Factories.                  |
| Printing Offices.                     | Vinegar Works.                     |
| Pulp Factories.                       | Wagon and Sleigh Factories.        |
| Pump Factories.                       | Wall Paper Factories.              |
| Pumping Stations.                     | Watch Case Factories.              |
| Quilting Factories.                   | Wax Paper Factories.               |
| Rag-sorting Workshops.                | Wheel Factories.                   |
| Rattan Goods Factories.               | Whip Factories.                    |
| Reaper Knife Factories.               | Wholesale Packing Houses.          |
| Regalia Factories.                    | Window Shade Factories.            |
| Repair Shops.                         | Wire Goods Factories.              |
| Rivet Works.                          | Woodenware Factories.              |
| Rolling Mills.                        | Wood Pulley Factories.             |
| Rope Works.                           | Wood Screw Factories.              |
| Rubber Factories.                     | Woollen Factories.                 |

The following Buildings, Structures or Premises were added to Schedule "A" by Order in Council the 9th day of October, 1914.

|   |  |
|---|--|
| Awnings, Blinds, Curtains and Sails.        | Explosives and Powder Plants.          |
| Abattoirs.                                  | Fertilizer Plants.                     |
| Aluminium Ware.                             | Fire Prevention Apparatus Appliances   |
| Artificial Ice Plants                       | Grain Elevators.                       |
| Artificial Preparation.                     | Granite and Stone Works.               |
| Artists' Supplies.                          | Greenhouses.                           |
| Asphalt Paving, Cork, Brick and Flooring    | Harness Factories.                     |
| Plants.                                     | Hook and Eye Factories.                |
| Automobile Factories and Supplies.          | Incinerators.                          |
| Alabastine and Lime Factories.              | Insulation Preparation.                |
| Bottlers' Supplies.                         | Laundry Machinery and Supplies.        |
| Box Shook Factories.                        | Mince Meat and Condiments.             |
| Braid and Cord Factories.                   | Metallic Supplies.                     |
| Bakers' and Confectionery Machinery and     | Motor Cycles and Supplies.             |
| Supplies.                                   | Musical Instruments and Supplies.      |
| Beds and Bedding.                           | Metal Refiners.                        |
| Belting,                                    | Needle Factories.                      |
| Bottling Works.                             | Oil Storage and Pumping Distributing   |
| Carpet Sweepers.                            | Stations.                              |
| Car Repair Shops.                           | Optician and Optical Supplies.         |
| Carriage Tops and Supply Factories.         | Pattern Works.                         |
| Cash Registers.                             | Pharmaceutical Works.                  |
| Celluloid Factories.                        | Pipe Factories.                        |
| Chopping Mills.                             | Plumbers' and Steam Fitters' Supplies. |
| Cloth Factories.                            | Rubber and Metal Stamps.               |
| Clothes Cleaning Factories.                 | Roofing Factories.                     |
| Concrete Works.                             | Souvenir Factories.                    |
| Cut Glass Factories.                        | Shipbuilding.                          |
| Collection Box Factories.                   | Structural Steel and Bridge Works.     |
| Creosoting Factories.                       | Scale Works.                           |
| Cold Storage Factories.                     | Stoves, Furnaces and Miscellaneous.    |
| Collar and Cuff Factories.                  | Stone, Marble Crushing and Grinding    |
| Dairy Supplies.                             | Works.                                 |
| Dental Supplies.                            | Surgical Appliances.                   |
| Dry Cleaning.                               | Tile Works.                            |
| Dairy Factories.                            | Upholstering Factories.                |
| Electrical Supplies and Fixtures.           | Wall Board Factories.                  |
| Electrical Power and Distribution Stations. | White, and other Lead Factories.       |

FORM 6.

(Sections 60-62.)

"The Factory, Shop and Office Building Act."

To.....  
(Factories Inspector.)

You are hereby notified pursuant to section 60 (or as the case may be) of "The Factory, Shop and Office Building Act," of the happening of an accident in the factory hereunder mentioned, whereof the following are particulars:—

1. Name of person injured (or killed).
2. Factory in which accident happened.
3. Date of accident.
4. Age of person injured (or killed).
5. Residing on                      street in the                      of
6. Cause of injury (or death).
7. Extent of injury.
8. Where injured or killed person sent
9. Remarks.

Dated this                      day of  
(Signature of Employer or Agent) .....

(Forms 1-5 and 7 omitted.)

**Employment of Children—Street Trades.**

Chapter 231.—16. No girl under sixteen years of age and no boy under ten years of age shall engage in or be licensed or permitted to engage in any street trade or occupation.

**Examination and Licensing of Moving Picture Operators.**

Chapter 236.—3. The Lieutenant-Governor in Council may . . . . . make Regulations for licensing, using and operating cinematographs, moving picture machines or other similar apparatus, for prescribing the conditions under which such machines shall be operated . . . . . for examining, regulating and licensing operators and for prescribing the terms and conditions under which such machines shall be operated . . . . . 1

**Protection of Employees near Horse-power Machines.**

Chapter 238.—1. This Act may be cited as The Threshing Machines Act.

2. (1) Every person owning or running a threshing machine, wood-sawing or other machine which is connected to a horse-power by means of a tumbling rod or line of shafting, shall cause each of the knuckles, couplings or joints and jacks of such tumbling rod or line of shafting, to be safely boxed or secured while running, with wood, leather or metal covering, in such manner as to prevent injury to persons passing over or near such tumbling rod, and the knuckles, couplings or joints and jacks thereof; and shall cause all oiling cups attached to arbors or journals to which driving belts are attached, to be furnished with tubes of tin or other material, which shall extend above the belts in such manner as to prevent injury to a person oiling the machine when it is in motion; and shall cause a driver's platform of sufficient size to cover the gearing of the horse-power to be so placed on it when used for driving machinery as to prevent an injury to any person from contact with such gearing.

(2) No action shall be maintained, nor shall any legal liability exist, for services rendered by or with any such machine, where the provisions of this section have not been complied with.

3. Any person owning or running a threshing, wood-sawing or other machine, connected to a horse-power by means of a tumbling rod or line of shafting, who neglects or refuses to comply with the provisions of this Act, shall incur a penalty of not less than \$1 nor more than \$20, recoverable under "The Ontario Summary Convictions Act."

4. All penalties imposed and collected under this Act shall be paid, one-half to the complainant or prosecutor, and the other half to the treasurer of the school section in which the offence was committed, for the use of the public school in such section.

5. All proceedings against any person for a violation of section 2 of this Act shall be commenced within thirty days after the commission of the offence.

6. A conviction under this Act shall not be quashed for any defect in the form thereof, or for any omission or informality in any summons or other proceeding under this Act, so long as no substantial injustice results therefrom.

**Inspection of Steam Boilers.**

Chapter 252.—1. This Act may be cited as The Steam Boiler Act.

2. In this Act and in the Regulations:—

(a) "Inspector" shall mean an Inspector appointed by the Lieutenant-Governor in Council under and for the purposes mentioned in this Act;

(b) "Minister" shall mean the Minister of Public Works;

(c) "Regulations" shall mean regulations made under the authority of this Act by the Lieutenant-Governor in Council;

(d) "Steam Boiler" shall mean and include a boiler used for generating steam for heating or power purposes, and every part thereof or thing connected therewith, and apparatus and things attached to or used in connection with any such boiler, but not

i. a boiler in a private residence, apartment house, office building, church, hotel, or public building used exclusively for heating purposes, and provided with a device approved by the Minister, limiting the pressure carried to fifteen pounds to the square inch, nor

ii. a portable boiler, rated at 25 horse-power or under, or a boiler used exclusively for horticultural or agricultural purposes.

<sup>1</sup> Regulations have been issued under this section respecting the subjects mentioned therein.

3. Upon the recommendation of the Minister of Public Works the Lieutenant-Governor in Council may make Regulations

(a) respecting the construction of steam boilers;

(b) prescribing specifications for the construction of steam boilers, including the material to be used, the method and order of construction, the tests to be applied during and after construction;

(c) for the inspection of every steam boiler during its construction and before it is removed from the place of construction; and

(d) generally respecting such other matter as may be deemed proper to secure a uniform standard of strength, safety and efficiency in the construction of steam boilers.<sup>1</sup>

4. The Regulations shall be published in the Ontario Gazette and shall come into force and take effect at a date to be named by Proclamation.

5. (1) The Lieutenant-Governor in Council may appoint Inspectors of steam boilers for the purposes of this Act and for the enforcement of the Regulations, and may designate one of them to be Chief Boiler Inspector.

(2) The Minister may employ any boiler insurance company registered in the Department of Insurance, or any Inspection Company engaged in the inspection of steam boilers, to make any inspection of steam boilers during their construction, required by the Regulations, and the company making such inspection shall report upon the same within fourteen days thereafter to the Chief Boiler Inspector.

6. No person shall be appointed or shall hold office as Inspector who is directly or indirectly interested in the manufacture or sale of steam boilers or steam machinery.

7. Every Inspector appointed under the provisions of this Act, shall, before entering upon the performance of his duties, take and subscribe an oath that he will faithfully and impartially perform the duties of his office.

8. For the purpose of seeing that the provisions of this Act, and of the Regulations are complied with, an Inspector may at any reasonable hour enter upon any land or into any building where any steam boiler is under construction, alteration or repair.

9. Any person interfering with or obstructing any Inspector in the performance of his duties under this Act shall incur a penalty not exceeding \$50.

10. (1) An Inspector may by notice in writing require the attendance before him, at a time and place named in the notice, of any person, and may examine such person either alone or in the presence of any other persons as he may think fit as to any matter connected with the construction, alteration or repair of a steam boiler or its removal from any place in which it has been constructed, altered or repaired.

(2) For the purpose of subsection (1) the Inspector may administer an oath to any person to be examined by him.

(3) Every person who wilfully neglects or refuses to attend before the Inspector after receiving notice so to do, or refuses to be sworn or to give evidence before the Inspector, or to answer any question put to him by the Inspector touching the matters mentioned in subsection 1, shall incur a penalty of \$25.

11. (1) Upon completion of his inspection the Inspector shall issue to the owner or manufacturer of the boiler an inspection certificate; and the owner or manufacturer shall pay the Inspector a fee of \$5 for such inspection and the issue of such certificate.

(2) Any owner or manufacturer neglecting or refusing to pay the Inspector such fee shall incur a penalty not exceeding \$20.

12. (1) Any person who is dissatisfied with the action of an Inspector or with a certificate of inspection issued by him may within one week after the inspection appeal to the Minister, who may thereupon cause another inspection to be made by one or more competent inspectors, who shall report to him, and the decision of the Minister shall be final.

(2) Any expenses occasioned by the appeal and second inspection shall be paid as determined by the Minister.

13. All fees paid and all penalties recovered under this Act or the Regulations shall be paid to the Treasurer of Ontario.

14. The penalties imposed by or under the authority of this Act shall be recoverable under The Ontario Summary Convictions Act.

15. This Act shall not apply to

(a) a new boiler in the possession of the manufacturer or of a dealer in steam boilers on the 1st day of July, 1913, or to a boiler under construction on that date; or to

(b) a second hand boiler in the possession of the manufacturer or of a dealer in steam boilers on that date, unless the same is re-built or extensively altered after that date.

<sup>1</sup> Under this section detailed regulations have been issued containing specifications with respect to the design, material, workmanship, and fittings to be used in the construction of boilers. Certain provisions respecting the inspection of boilers are also included in the regulations.

### Employment of Children—School Attendance.

Chapter 274.—3. Every child between eight and fourteen years of age shall attend school for the full term during which the school of the section or municipality in which he resides is open each year, unless excused for the reasons hereinafter mentioned.

5. (1) A parent, guardian or other person shall not be liable to any penalty imposed by this Act in respect of a child if—

(a) the child is under efficient instruction at home or elsewhere;

(b) the child is unable to attend school by reason of sickness or other unavoidable cause;

(c) there is no public or separate school which the child has the right to attend within two miles measured by the nearest highway from such child's residence, if he is under ten years of age, or within three miles if he is over that age;

(d) there is not sufficient accommodation in the school which the child has the right to attend;

(e) the child has been excused, as hereinafter provided, by a justice of the peace or by the principal of the school which the child is entitled to attend; or

(f) the child has passed the entrance examination for high schools prescribed by the regulations, or has completed the course prescribed for the fourth form of the public school or a course which gives him an equivalent standing.

(2) The fact that the child is blind or deaf and dumb shall not be deemed an unavoidable cause within the meaning of clause (b) of this section if the child is a fit subject for admission to the Ontario School for the Deaf or the Ontario School for the Blind.

6. (1) No child under the age of fourteen years who has not a valid excuse under this Act shall be employed by any person during school hours while the public school of the section or municipality in which the child resides is in session, and any person who employs a child in contravention of this section shall incur a penalty not exceeding \$20.

(2) Where in the opinion of a justice of the peace or of the principal of the school attended by any child the services of such child are required in husbandry or in urgent and necessary household duties, or for the necessary maintenance of such child or of some person dependent upon him, such justice or principal may, by certificate setting forth the reasons therefor, relieve such child from attending school for any period not exceeding six weeks during each public school term.

### Vocational Training—Employment of Adolescents.

[Chapter 275. The Adolescent School Attendance Act, is replaced by 1916, chapter 62.]

### Vocational Training—Industrial and Technical Schools.

Chapter 276 with amendment.—1. This Act may be cited as The Industrial Education Act.

2. In this Act,

(a) "Board" shall mean and include a board of education, and a board of high school trustees;

(b) "Minister" shall mean Minister of Education;

(c) "Regulations" shall mean regulations made under the authority of The Department of Education Act" or of this Act.

3. This Act shall apply to all art, industrial and technical schools and courses, heretofore established under Acts of this Legislature respecting high schools and technical schools and in operation at the time of the passing of this Act; to the art, industrial or technical schools and courses established under this Act; and to agricultural and commercial high schools and high school courses heretofore or hereafter established under the Regulations.

### Schools and Courses.

4. With the approval of the Minister a high school board or a board of education of any city, town or village, may provide for duly admitted pupils in the following classes of schools:

(a) general industrial schools and courses for instruction in such subjects as may form a basal preparation for the trades, including work-shop practice, with correlated drawing, English, practical mathematics and science, and the essential subjects of a good general education;

(b) special industrial schools and courses for instruction in the theoretical and practical work of particular trades carried on in the city, town or village, and, when deemed desirable, in the essential subjects of a good general education;



(c) technical high schools and high school courses for instruction for minor directive positions in industrial establishments;

(d) part-time co-operative industrial courses in which and under such conditions as may be agreed upon between the employer and the advisory industrial committee, apprentices, whether articulated or not, employed in the work-shops may receive in the day schools instruction bearing upon their trades; and pupils attending the day schools may receive practical instruction in the workshops;

(e) schools and courses for instruction in the fine and applied arts;

(f) industrial, technical and art evening schools in which workmen and workwomen employed during the day may receive theoretical and practical instruction in their trades or callings.

5. (1) Pupils duly admitted under the Regulations to a high school may be admitted to a technical high school or high school course.

(2) Subject to the Regulations and on the report of the principal, approved by the advisory industrial committee, pupils of at least the standing of the fourth form of the public and separate schools may be admitted to a general or special industrial school or part-time co-operative industrial course or a school or course for instruction in the fine and applied arts.

(3) Workmen or workwomen employed during the day may be admitted to an industrial, technical or art evening school or course subject to the Regulations and on the report of the principal, approved by the advisory industrial committee, that they are competent to receive instruction therein.

#### Advisory Committees.

6. (1) Every technical school established before the 21st March, 1911, and then in operation, and the schools mentioned in section 4, whether heretofore or hereafter established, shall be under the management and control of a committee composed of eight or twelve persons as the board may direct, the members of which shall be appointed by the board as follows:

(a) when the number of persons is eight,

(i) four members of the board including one representative of the board of public school trustees and one representative of the board of separate school trustees, if any;

(ii) two persons, not members of the board, who are engaged as employees in the manufacturing or other industries carried on in the local municipality or in the country or district in which the school is situate; and

(iii) two other persons, not members of the board, who are employers of labour or directors of companies employing labour in manufacturing or other industries carried on in the local municipality or in the country or district in which the school is situate;

(b) when the number of persons is twelve,

(i) six members of the board including one representative of the board of public school trustees and one representative of the board of separate school trustees, if any;

(ii) three persons, not members of the board, who are engaged as employees in the manufacturing or other industries carried on in the local municipality or in the country or district in which the school is situate, and

(iii) three other persons, not members of the board, who are employers of labour or directors of companies employing labour in manufacturing or other industries carried on in the local municipality or in the county or district in which the school is situate.

(2) The committee shall be known as the Advisory Industrial Committee.

7. (1) Where in accordance with the Regulations an agricultural or a commercial high school has been or is hereafter established or an agricultural or a commercial course is established in a high school or a continuation school, such school or course shall be under the management and control of a committee composed of eight persons, the members of which shall be appointed by the board as follows:—

(a) four members of the board including one representative of the board of public school trustees and one representative of the board of separate school trustees, if any;

(b) four persons who are resident ratepayers of the local municipality or of the county or district in which the school is situate or the course is established who are not members of the board and who,

(i) in the case of an agricultural high school or commercial course are actually engaged in agricultural pursuits, or

(ii) in the case of a commercial high school or commercial course are actually engaged in commercial pursuits.

(2) The committee shall be known as the Advisory Agricultural Committee or the Advisory Commercial Committee, as the case may be.

(3) Subject to the regulations, pupils who have been duly admitted to a high school under sections 44 or 45 of The High Schools Act may be admitted to a commercial or agricultural high school or the commercial or agricultural courses of a high or continuation school. 1915, c. 43, s. 9, part.

(4) Subject to the regulations, the public school inspector and the principal of a high or continuation school may also admit to an agricultural high school or to the agricultural courses of a high or continuation school a pupil who has at least the standing of form 4 of the public and separate schools, but who does not hold a high school entrance certificate, and who is at least fourteen years of age. 1915, c. 43, s. 9, part.

8. (1) The first members of an advisory committee shall be appointed at the meeting of the board at which a school or course is established for which an advisory committee is to be appointed under this Act.

(2) The members appointed under subclause (i) of clause (a) of subsection (1) of section 6, and subclause (i) of clause (b) of section 6, and clause (a) of subsection (1) of section 7 shall hold office until the expiry of the period for which they were elected or appointed to the board.

(3) The term for which the other members of the committee shall respectively hold office shall be fixed by the board but shall not exceed three years.

(4) The board, at its first meeting in each year after the establishment of the school or course, shall appoint a sufficient number of members from each class to fill the vacancies caused by the expiry of the term of office of members appointed from that class.

(5) Every vacancy upon a committee occasioned by death, removal or other cause shall be filled by the appointment by the Board of some person from the class in which the vacancy occurs, and every person so appointed shall hold office for the unexpired portion of the term of the member whose seat has become vacant.

(6) The presence of a majority of the members constituting a committee shall be a quorum at any meeting, and a vote of the majority of such quorum shall be necessary to bind a committee.

(7) On every question other than the election of a chairman the chairman or presiding officer of the committee may vote with the other members of the committee, and any question on which there is an equality of votes shall be deemed to be negatived.

(8) The members of an advisory committee holding office on the 6th day of May, 1913, shall continue to hold office until their successors are appointed as provided by this Act.

9. (1) An advisory committee may, at a meeting which has been specially called for that purpose and of which notice has been given in writing to all the members, appoint such additional members, hereinafter called co-opted members, as it may deem advisable, and members of the board may be so appointed; but

(a) in the case of an advisory industrial committee an equal number of the persons so appointed shall be chosen from each of the classes mentioned in subclauses (ii) and (iii) of clauses (a) and (b) of subsection (1) of section 6; and

(b) in all cases the members so appointed shall belong to the classes from which persons not members of the board may be appointed by the board to the committee.

(2) The term for which co-opted members of the committee shall respectively hold office shall be fixed by the committee, but shall not exceed three years.

10. The members of a committee appointed under this Act, including co-opted members, shall be British subjects, and shall be persons who, in the judgment of the board are specially competent to give advice and other assistance in the management of the school or course under the charge of the committee.

11. (1) Subject to the approval of the Minister and the board, every advisory committee shall have authority to provide a suitable site and building and suitable equipment or to arrange for conducting the school or course in a high, public, separate or continuation school building or other building in the municipality, and to prescribe courses of study and provide for examinations and diplomas.

(2) Subject to the approval of the board, the committee shall employ teachers and fix their salaries, report on every school or course under its charge, fix the fees payable by pupils in attendance, submit annually to the board at such date as the board may prescribe an estimate of the amount required to carry on the work of the school or course during the year, and generally do all other things necessary for carrying out the objects and intent of this Act with respect to any school or course under its management and control.

(3) The Board shall not refuse its approval of any report of an advisory committee without having given the committee an opportunity to be heard before the Board and before any committee thereof to which such report may be referred by its chairman or by another member of the advisory committee appointed for that purpose.

(4) The secretary and other officers of the Board shall be the officers of the advisory committees.

12. (1) Subject to the regulations the estimates of the committee of the cost of establishing, equipping and maintaining the school or course under its management and control, when and so far as they have been approved by the Board, shall be included in its estimates submitted to the council of the municipality for the year.

(2) Subject to the regulations, the cost of establishing and maintaining, and of making additions, alterations or permanent improvements to every school established under section 4 or under chapter 79 of the Acts passed in the 1st year of His Majesty's reign, shall be provided in the same manner as in the case of a high school.

13. Subject to the regulations the Minister shall apportion all sums of money appropriated by this Legislature for the establishment and maintenance of schools or courses to which this Act applies.

14. The regulations may provide as to any class of schools or courses for the qualifications of teachers, the courses of study, the character of the site, accommodations, and equipment, the maximum and minimum fees that may be charged to pupils, and generally as to any matter relating to the conduct and efficiency of the schools and courses not herein expressly provided for.

15. Subject to the Minister's approval where an advisory committee and the board of education or the board of public or separate school trustees so agree, evening courses in manual training and household science, art, agriculture or commerce under the charge of the Board shall thereafter be under the control and management of the advisory industrial, agricultural or commercial committee as the case may be. 1915, c. 43, s. 10.

16. Subject to the approval of the Minister an advisory committee may also establish and conduct special evening courses in any centre in the county outside of the district over which it has jurisdiction.

#### Prison Labour.

Chapter 287.—17. The Ontario Reformatory shall be furnished with all requisite means for carrying on beneficial labour by the inmates in shops and the various forms of labour, having for its base, clay, sand, gravel, stone, lime, agriculture, horticulture and dairying in all their various branches.

20. (1) The Lieutenant-Governor in Council may authorize, direct or sanction the employment of any prisoner upon any specific work or duty beyond the limits of the Reformatory.

(2) Every such prisoner during such employment shall be subject to all the provisions of this Act and to the Regulations and discipline of the Reformatory, and to such other regulations of the superintendent as may be prescribed by the Inspector.

24. All dealings and transactions on account of the Reformatory, and all contracts for goods, wares or merchandise necessary for maintaining and carrying it on, or for the sale of goods prepared or manufactured in the Reformatory, or for the hire, labour or employment of any of the prisoners either within or without the limits of the Reformatory, shall be entered into and carried out by the Inspector of Prisons and Public Charities in his corporate name in behalf of His Majesty.

25. For more efficiently carrying on the industries at the Reformatory the Minister may cause an account to be opened in any branch in Ontario of a chartered bank of the Dominion of Canada in the name of the "Reformatory Industries," with a credit from year to year to cover what may be required for the year for the purposes of the business in connection with such industries, not exceeding the estimated sales of the year as reported to the Assembly by the Minister.

Chapter 288.—18. The Andrew Mercer Reformatory shall be furnished with all requisite means for enforcing the performance of beneficial labour by the inmates thereof.

Chapter 292 with amendment.—10. The regulations in respect to industrial farms other than those in the Provisional Judicial Districts may provide for requiring every person sent to the Industrial Farm to perform such work or service, at such times, for such hours, and at such trade or labour, as he may appear to be fit for, and for buying material therefor, and for selling the articles manufactured or produced therefrom, and for applying the earnings or part of the earnings of such person, for his maintenance or for the maintenance of his wife, children or other dependent members of his family, or for the general maintenance of the Industrial Farm, or towards aiding such person to reach his friends, or any place to which it may be deemed advisable to send him upon his discharge.

(2) The Lieutenant-Governor in Council may make regulations for the management and discipline of an industrial farm in a Provisional Judicial District and for prescribing the duties and conduct of the superintendent, officers and employees thereof, and as to the diet, clothing, maintenance, employment, classification, instruction, discipline, correction, punishment and reward of persons detained therein. 1914, c. 52, s. 3.

Chapter 293.—26. The Lieutenant-Governor in Council may direct or authorize the employment beyond the limits of the common gaol upon any work or duty, the nature of which is specified in the Order in Council, of any person who is sentenced to be imprisoned with hard labour in such gaol under the authority of any statute of Ontario or for the breach of a by-law of any municipal corporation or board of commissioners of police.

### Liability of Employers for Maintenance of Employees in Public Hospitals.

[Chapter 300, section 23, subsections (1), (2) and (3), provides for the maintenance in public hospitals of indigent patients resident in municipalities. Subsections (6) and (7) provide for patients from unorganized territory as follows:—]

(6) Where a patient is admitted to a hospital from territory without municipal organization, in which he was employed immediately prior to his admission to the hospital, the superintendent shall notify his employer in the same manner as provided for in subsection 3, and such employer shall be liable for the maintenance of the patient.

(7) Every employer of labour having more than ten persons in his employ and having a contract for the medical and surgical care of his employees shall be liable for the maintenance of such employee in any public hospital; but not at a higher rate than the actual cost per day for maintenance at such hospital.

### Sunday Labour.

[Chapter 246 of the Revised Statutes of 1897, An Act to Prevent Profanation of the Lord's Day, is omitted from the revision of 1914. In Attorney-General for Ontario v. The Hamilton Street Railway Company and others [1903], A.C. 524—it was held that the said chapter 246 treated as a whole is *ultra vires* of the Ontario Legislature, since the criminal law is reserved by the British North America Act for the exclusive authority of the Parliament of the Dominion of Canada. See chapter 153 of the Revised Statutes of Canada, page 92 of this Report.]

### STATUTES OF 1914.

#### Workmen's Compensation.

Chapter 25 with amendment.—1. This Act may be cited as The Workmen's Compensation Act.

2. (1) In this Act:—

(a) "Accident" shall include a wilful and an intentional act, not being the act of the workman and a fortuitous event occasioned by a physical or natural cause;

(b) "Accident Fund" shall mean the fund provided for the payment of compensation, outlays and expenses under this Act in respect of Schedule 1. 1915, c. 24, s. 1 (1).

(c) "Board" shall mean Workmen's Compensation Board;

(d) "Construction" shall include reconstruction, repair, alteration and demolition;

(e) "Dependents" shall mean such of the members of the family of a workman as were wholly or partly dependent upon his earnings at the time of his death or who but for the incapacity due to the accident would have been so dependent;

(f) "Employer" shall include every person having in his service under a contract of hiring or apprenticeship, written or oral, express or implied, any person engaged in any work in or about an industry, and where the services of a workman are temporarily let or hired to another person by the person with whom the workman has entered into such a contract the latter shall be deemed to continue to be the employer of the workman whilst he is working for that other person;

(g) "Employment" shall include employment in an industry or any part, branch or department of an industry;

(h) "Industrial disease" shall mean any of the diseases mentioned in Schedule 3, and any other disease which by the Regulations is declared to be an industrial disease;

(i) "Industry" shall include establishment, undertaking, trade and business;

(j) "Invalid" shall mean physically or mentally incapable of earning;

(k) "Manufacturing" shall include making, preparing, altering, repairing, ornamenting, printing, finishing, packing, assembling the parts of and adapting for use or sale any article or commodity;

(l) "Medical Referee" shall mean medical referee appointed by the Board;

(m) "Member of the Family" shall mean and include wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother and half-sister, and a person who stood *in loco parentis* to the workman or to whom the workman stood *in loco parentis*, whether related to him by consanguinity or not so related, and where the workman is the parent or grandparent of an illegitimate child, shall include such child, and where the workman is an illegitimate child shall include his parents and grandparents;

(n) "Outworker" shall mean a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired, or adapted for

sale in his own home or on other premises not under the control or management of the person who gave out the articles or materials;

(o) "Regulations" shall mean Regulations made by the Board under the authority of this Act;

(p) "Workman" shall include a person who has entered into or works under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour, or otherwise, but when used in Part I shall not include an outworker, or a person engaged in clerical work and not exposed to the hazards incident to the nature of the work carried on in the employment. 1915, c. 24, s. 1 (2).

(2) The exercise and performance of the powers and duties of:—

(a) a municipal corporation;

(b) a public utilities commission;

(c) any other commission having the management and conduct of any work or service owned by or operated for a municipal corporation;

(d) the board of trustees of a police village; and

(e) a school board,

shall for the purposes of Part I be deemed the trade or business of the corporation, commission, board of trustees or school board, but the obligation to pay compensation under Part I shall apply only to such part of the trade or business as, if it were carried on by a company or an individual, would be an industry for the time being included in Schedule 1 or Schedule 2, and to workmen employed in or in connection therewith.

## PART I.

### Compensation.

3. (1) Where in any employment to which this Part applies personal injury by accident arising out of and in the course of the employment is after a day to be named by proclamation of the Lieutenant-Governor in Council caused to a workman his employer shall be liable to provide or to pay compensation in the manner and to the extent hereinafter mentioned except where the injury:—

(a) does not disable the workman for the period of at least seven days from earning full wages at the work at which he was employed, or

(b) is attributable solely to the serious and wilful misconduct of the workman unless the injury results in death or serious disablement.

(2) Where the accident arose out of the employment, unless the contrary is shown, it shall be presumed that it occurred in the course of the employment, and where the accident occurred in the course of the employment, unless the contrary is shown, it shall be presumed that it arose out of the employment.

(3) Where compensation for disability is payable it shall be computed and be payable from the date of the disability.

(4) This section shall not apply to a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business.

4. Employers in the industries for the time being included in Schedule 2 shall be liable individually to pay the compensation.

5. Employers in the industries for the time being included in Schedule 1, shall be liable to contribute to the accident fund as hereinafter provided, but shall not be liable individually to pay the compensation.

6. (1) Where an accident happens while the workman is employed elsewhere than in Ontario, which would entitle him or his dependents to compensation under this Part if it had happened in Ontario, the workman or his dependents shall be entitled to compensation under this Part—

(a) If the place or chief place of business of the employer is situate in Ontario, and the residence and the usual place of employment of the workman are in Ontario, and his employment out of Ontario has lasted less than six months; or

(b) If the accident happens on a steamboat, ship or vessel, or on a railway, and the workman is a resident of Ontario and the nature of the employment is such that in the course of the work or service which the workman performs it is required to be performed both within and without Ontario.

(2) Except as provided by subsection 1, no compensation shall be payable under this Part where the accident to the workman happens elsewhere than in Ontario.

(3) Compensation payable in respect of an accident happening elsewhere than in Ontario shall, except where the employer has fully contributed to the accident fund in respect of all the wages of workmen in his employ who are engaged in the business or work in which the accident happens, be paid by the employer individually, and the business or work carried on elsewhere than in Ontario by an employer who has not so contributed to the accident fund shall be deemed to be in Schedule 2. 1915, c. 24, s. 2.

7. (1) Where by the law of the country or place in which the accident happens the workman or his dependents are entitled to compensation in respect of it they shall be bound to elect whether they will claim compensation under the law of such country or place or under this Part and to give notice of such election, and if such election is not made and notice given it shall be presumed that they have elected not to claim compensation under this Part.

(2) Notice of the election, where the compensation under this Part is payable by the employer individually, shall be given to the employer, and where the compensation is payable out of the accident fund to the Board and shall be given in both cases within three months after the happening of the accident, or in case it results in death, within three months after the death or within such longer period as either before or after the expiration of such three months the Board may allow.

8. (1) Where a dependent is not a resident of Ontario he shall not be entitled to compensation unless by the law of the place or country in which he resides the dependants of a workman to whom an accident happens in such place or country if resident in Ontario would be entitled to compensation and where such dependents would be entitled to compensation under such law the compensation to which the non-resident dependent shall be entitled under this Part shall not be greater than the compensation payable in the like case under that law.

(2) Notwithstanding the provisions of subsection 1 the Board may award such compensation or sum in lieu of compensation to any such non-resident dependent as may be deemed proper and may pay the same out of the accident fund, or order it to be paid by the employer, as the case may be. 1915, c. 24, s. 3.

9. (1) Where an accident happens to a workman in the course of his employment under such circumstances as entitle him or his dependents to an action against some person other than his employer the workman or his dependents if entitled to compensation under this Part may claim such compensation or may bring such action.

(2) If an action is brought and less is recovered and collected than the amount of the compensation to which the workman or his dependents are entitled under this Part the difference between the amount recovered and collected and the amount of such compensation shall be payable as compensation to such workman or his dependents.

(3) If the workman or his dependents elect to claim compensation under this Part the employer, if he is individually liable to pay it, and the Board if the compensation is payable out of the accident fund shall be subrogated to the rights of the workman or his dependents and may maintain an action in his or their names against the person against whom the action lies and any sum recovered from him by the Board shall form part of the accident fund.

(4) The election shall be made and notice of it shall be given within the time and in the manner provided by section 7.

(5) This section shall not give any right to an employer in Schedule 1, or to a workman of an employer in Schedule 1, to bring an action against any employer in Schedule 1, but in any case where it appears to the satisfaction of the Board that a workman of an employer in any class in Schedule 1 is injured or killed owing to the negligence of an employer or the workman of an employer in another class in Schedule 1, the Board may direct that the compensation awarded in any such case shall be charged against the class to which such last-mentioned employer belongs. 1915, c. 24, s. 4.

10. (1) Where the compensation is payable by the employer individually and a person, in this section referred to as the principal, in the course of or for the purposes of his trade or business contracts with any other person, in this section referred to as the contractor, for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work the compensation which he would have been liable to pay if that workman had been immediately employed by him.

(2) Subsection 1 shall not apply where the accident happens elsewhere than on or in or about the premises upon which the principal has undertaken to execute the work or which are otherwise under his control or management. 1915, c. 24, s. 5, part.

(3) Where a person, whether carrying on an industry included in Schedule 1 or not, in this section referred to as the principal, contracts with any other person, in this section referred to as the contractor, for the execution by or under the contractor of the whole or any part of any work for the principal, it shall be the duty of the principal to see that any sum which the contractor or any sub-contractor is liable to contribute to the accident fund is paid, and if any such principal fails to do so he shall be personally liable to pay it to the Board, and the Board shall have the like powers and be entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment. 1915, c. 24, s. 5, part.

(4) Where compensation or contribution to the accident fund is claimed from the principal, in this part reference to the principal shall be substituted for reference to the employer, except that the amount of compensation or contribution shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed. 1915, c. 24, s. 5, part.



(5) Where the principal is liable to pay compensation or contribute to the accident fund under this section he shall be entitled to be indemnified by any person who should have paid the same, and all questions as to the right to and the amount of any such indemnity shall be determined by the Board. 1915, c. 24, s. 5, part.

(6) Nothing in this section shall prevent a workman claiming compensation or the Board collecting contribution to the accident fund from the contractor or any sub-contractor instead of the principal. 1915, c. 24, s. 5, part.

11. Where compensation is payable out of the accident fund, a member of the family of an employer, or the dependents of such member, shall not be entitled to compensation unless such member was at the time of the accident carried on the pay roll of the employer and his wages were included in the then last statement furnished to the Board under section 78 nor for the purpose of determining the compensation shall his earnings be taken to be more than the amount of his wages, as shown by such pay roll and statement. 1915, c. 24, s. 6.

12. Where compensation is payable out of the accident fund and an employer carries himself on his pay roll at a salary or wage which the Board deems reasonable, but not exceeding the rate of \$2,000 per annum, and includes such salary or wages in his then last statement furnished to the Board under section 78, such employer shall be deemed to be a workman within the meaning of this Act, and he or his dependents shall be entitled to compensation accordingly, but for the purpose of determining the compensation his earnings shall not be taken to be more than the amount of his salary or wages as shown by such pay roll and statement. 1915, c. 24, s. 7.

13. No action shall lie for the recovery of the compensation whether it is payable by the employer individually or out of the accident fund, but all claims for compensation shall be heard and determined by the Board.

14. If a workman receiving a weekly or other periodical payment ceases to reside in Ontario he shall not thereafter be entitled to receive any such payment unless a medical referee certifies that the disability resulting from the injury is likely to be of a permanent nature and if a medical referee so certifies and the Board so directs the workman shall be entitled quarterly to the amount of the weekly or other periodical payments accruing due if he proves in such manner as may be prescribed by the Regulations his identity and the continuance of the disability in respect of which the same is payable.

15. (1) The provisions of this Part shall be in lieu of all rights and rights of action, statutory or otherwise, to which a workman or his dependents are or may be entitled against the employer of such workman for or by reason of any accident happening to him on or after the first day of January, 1915, while in the employment of such employer, and no action in respect thereof shall lie.

(2) Any party to an action may apply to the Board for adjudication and determination of the question of the plaintiff's right to compensation under this Part, or as to whether the action is one the right to bring which is taken away by this Part, and such adjudication and determination shall be final and conclusive. 1915, c. 24, s. 8.

16. It shall not be competent for a workman to agree with his employer to waive or to forego any of the benefits to which he or his dependents are or may become entitled under this Part and every agreement to that end shall be absolutely void.

17. (1) Where the compensation is payable by an employer individually no agreement between a workman or dependent and the employer for fixing the amount of the compensation or by which the workman or dependent accepts or agrees to accept a stipulated sum in lieu or in satisfaction of it shall be binding on the workman or dependent unless it is approved by the Board.

(2) Subsection (1) shall not apply to compensation for temporary disability lasting for less than four weeks, but in such cases the Board may, on the application of the workman or dependent, or of its own motion, set aside the agreement on such terms as may be deemed just. 1915, c. 24, s. 9.

(3) Nothing in this section shall be deemed to authorize the making of any such agreement except with respect to an accident that has happened and the compensation to which the workman or dependent has become entitled because of it.

18. (1) It shall not be lawful for an employer, either directly or indirectly, to deduct from the wages of any of his workmen any part of any sum which the employer is or may become liable to pay to the workman as compensation under this Part or to require or to permit any of his workmen to contribute in any manner towards indemnifying the employer against any liability which he has incurred or may incur under this Part.

(2) Every person who contravenes any of the provisions of subsection (1) shall for every such contravention incur a penalty not exceeding \$50 and shall also be liable to repay to the workman any sum which has been so deducted from his wages or which he has been required or permitted to pay in contravention of subsection (1).

19. Unless with the approval of the Board no sum payable as compensation or by way of commutation of any weekly or other periodical payment in respect of it shall be capable of being assigned, charged or attached, nor shall it pass by operation of law except to a personal representative nor shall any claim be set off against it.



20. (1) Subject to subsection (5) compensation shall not be payable unless notice of the accident is given as soon as practicable after the happening of it and before the workman has voluntarily left the employment in which he was injured and unless the claim for compensation is made within six months from the happening of the accident or in case of death within six months from the time of death.

(2) The notice shall give the name and address of the workman and shall be sufficient if it states in ordinary language the cause of the injury and where the accident happened.

(3) The notice may be served by delivering it at or sending it by registered post addressed to the place of business or the residence of the employer, or where the employer is a body of persons, corporate or unincorporate, by delivering it at or sending it by registered post addressed to the employer at the office or if there are more offices than one at any of the offices of such body of persons.

(4) Where the compensation is payable out of the accident fund the notice shall also be given to the Board by delivering it to or at the office of the Secretary or by sending it to him by registered post addressed to his office.

(5) Failure to give the prescribed notice or any defect or inaccuracy in a notice shall not bar the right to compensation if in the opinion of the Board the employer was not prejudiced thereby or where the compensation is payable out of the accident fund if the Board is of opinion that the claim for compensation is a just one and ought to be allowed.

21. (1) A workman who claims compensation, or to whom compensation is payable under this Part, shall if so required by his employer submit himself for examination by a duly qualified medical practitioner provided and paid for by the employer, and shall if so required by the Board submit himself for examination by a medical referee.

(2) A workman shall not be required at the request of his employer to submit himself for examination otherwise than in accordance with the Regulations:

22. (1) Where a workman has upon the request of his employer submitted himself for examination, or has been examined by a duly qualified medical practitioner selected by himself, and a copy of the report of the medical practitioner as to the workman's condition has been furnished in the former case by the employer to the workman and in the latter case by the workman to the employer the Board may, on the application of either of them, refer the matter to a medical referee.

(2) The medical referee to whom a reference is made under the next preceding subsection or who has examined the workman by the direction of the Board under subsection (1) of section 21, shall certify to the Board as to the condition of the workman and his fitness for employment, specifying where necessary the kind of employment, and if unfit, the cause of such unfitness, and his certificate unless the Board otherwise directs shall be conclusive as to the matters certified. 1915, c. 24, s. 10.

(3) If a workman does not submit himself for examination when required to do so as provided by subsection (1) of section 21, or on being required to do so does not submit himself for examination to a medical referee under that subsection or under subsection (1) of this section, or in any way obstruct any examination, his right to compensation or if he is in receipt of a weekly or other periodical payment his right to it shall be suspended until such examination has taken place.

22a. Where in any case, in the opinion of the Board, it will be in the interest of the accident fund to provide a special surgical operation or other special medical treatment for a workman, and the furnishing of the same by the Board is, in the opinion of the Board, the only means of avoiding heavy payment for permanent disability, the expense of such operation or treatment may be paid out of the accident fund. 1915, c. 24, s. 11.

23. Any weekly or other periodical payment to a workman may be reviewed at the request of the employer or of the workman, if the compensation is payable by the employer individually, or, if the compensation is payable out of the accident fund, of the Board's own motion or at the request of the workman and on such review the Board may put an end to or diminish or may increase such payment to a sum not beyond the maximum hereinafter prescribed.

24. Where the workman was at the date of the accident under twenty-one years of age and the review takes place more than six months after the accident the amount of a weekly payment may be increased to the sum to which he would have been entitled if his average earnings had at the date of the accident been equal to what if he had not been injured he would probably have been earning at the date of the review.

25. (1) Where the compensation is payable by an employer individually, the employer may, with the consent of the workman or dependent to whom it is payable and with the approval of the Board, but not otherwise, and where it is payable out of the accident fund, the Board may commute the weekly or other periodical payments payable to a workman or a dependent for a lump sum.

(2) Where the lump sum is payable by the employer individually it shall be paid to the Board.

(3) The lump sum may be:—

(a) applied in such manner as the workman or dependant may direct;

(b) paid to the workman or dependant;

(c) invested by the Board and applied from time to time as the Board may deem most for the advantage of the workman or dependant;

(d) paid to trustees to be used and employed upon and subject to such trusts and for the benefit of such persons as, in case it is payable by the employer individually, the workman or dependant directs and the Board approves, or, if payable out of the accident fund, as may be desired by the workman or dependant and approved by the Board;

(e) applied partly in one and partly in another or others of the modes mentioned in clauses (a), (b), (c) and (d), as the Board may determine.

(4) Where the compensation is payable out of the accident fund, the Board may in any case where in its opinion the interest or pressing need of the workman or dependant warrants it, advance or pay to or for the workman or dependant such lump sum as the circumstances warrant and as the Board may determine. 1915, c. 24, s. 32.

26. (1) Where a weekly or other periodical payment is payable by the employer individually and has been continued for not less than six months, the Board may on the application of the employer allow the liability therefor, to be commuted by the payment of a lump sum of such an amount as, if the disability is permanent, would purchase an immediate annuity from a life insurance company approved by the Board, equal to seventy-five per cent of the annual value of the weekly or other periodical payments, and in other cases of such an amount as the Board may deem reasonable.

(2) The sum for which a payment is commuted under subsection (1) shall be paid to the Board and shall be dealt with in the manner provided by section 25.

27. (1) Where an employer insured by a contract of insurance of an insurance company or any other underwriter is individually liable to make a weekly or other periodical payment to a workman or his dependants and the payment has continued for more than six months the liability shall, if the Board so directs before the expiration of twelve months from the commencement of the disability of the workman or his death; if the accident resulted in death, be commuted by the payment of a lump sum in accordance with the next preceding section, and the company or underwriter shall pay the lump sum to the Board, and it shall be dealt with in the manner provided by section 25.

(2) This section shall not apply to a contract of insurance entered into before the passing of this Act.

28. The Board may require an employer who is individually liable to pay the compensation to pay to the Board a sum sufficient to commute in accordance with section 26, any weekly or other periodical payments which are payable by the employer and such sum shall be applied by the Board in the payment of such weekly or other periodical payments as they from time to time become payable, but if the sum paid to the Board is insufficient to meet the whole of such weekly or other periodical payments the employer shall nevertheless be liable to make such of them as fall due after the sum paid to the Board is exhausted, and if the sum paid is more than sufficient for that purpose the excess shall be returned to the employer when the right to compensation comes to an end. 1915, c. 24, s. 12.

29. The Board may require an employer who is individually liable to pay the compensation to insure his workmen and keep them insured against accidents in respect of which he may become liable to pay compensation in a company approved by the Board for such amount as the Board may direct, and in default of his doing so the Board may cause them to be so insured and may recover the expense incurred in so doing from the employer in the same way as payment of assessments may be enforced. 1915, c. 24, s. 13.

30. (1) Where an employer who is individually liable to pay the compensation is insured against his liability to pay compensation, the Board may require the insurance company or other underwriter to pay the sum which under the contract of insurance such company or underwriter would be liable to pay to the employer in respect of an accident to a workman who becomes, or whose dependants become, entitled to compensation under this Part, directly to the Board in discharge or in discharge *pro tanto* of the compensation to which such workman or his dependants are found to be entitled.

(2) In any case to which subsection (1) applies where a claim for compensation is made notice of the claim shall be given to the insurance company or other underwriter and to the employer, and the Board shall determine not only the question of the right of the workman or dependant to compensation but also the question whether the whole or any part of it should be paid directly by the insurance company or other underwriter as provided by subsection (1).

(3) Section 25 shall apply to the compensation payable to the Board under subsection (1).

31. (1) Where the accident causes permanent disability, either total or partial, or the death of the workman and the compensation is payable by the employer individually the Board may require the employer to pay to the Board such sum as in its opinion will be sufficient with the interest thereon if invested so as to earn interest at the rate of 5 per cent per annum to meet the future payments to be made to the workman or his dependants, and such sum when paid to the Board shall be invested by it and shall form a fund to meet such future payments.

(2) The Board, instead of requiring the employer to make the payment provided for by subsection (1), may require him to give such security as the Board may deem sufficient for the future payments.

32. Where a right to compensation is suspended under the provisions of this Part no compensation shall be payable in respect of the period of suspension.

#### Scale of Compensation.

33. (1) Where death results from an injury the amount of the compensation shall be:—

(a) The necessary expenses of the burial of the workman not exceeding \$75;

(b) Where the widow or an invalid husband is the sole dependant, a monthly payment of \$20;

(c) Where the dependants are a widow or an invalid husband and one or more children, a monthly payment of \$20, with an additional monthly payment of \$5 for each child under the age of 16 years, not exceeding in the whole \$40;

(d) Where the dependants are children, a monthly payment of \$10 to each child under the age of 16 years, not exceeding in the whole \$40;

(e) Where the dependants are persons other than those mentioned in the foregoing clauses, a sum reasonable and proportionate to the pecuniary loss to such dependants occasioned by the death, to be determined by the Board, but not exceeding to the parents or parent \$20 per month, and not exceeding in the whole \$30 per month. 1915, c. 24, s. 14 (a).

(2) In the case provided for by clause (e) of subsection (1) the payments shall continue only so long as in the opinion of the Board it might reasonably have been expected had the workman lived he would have continued to contribute to the support of the dependants. 1915, c. 24, s. 15 14 (b).

(3) Where there are both total and partial dependants the compensation may be allotted partly to the total and partly to the partial dependants.

(4) Where the Board is of opinion that for any reason it is necessary or desirable that a payment in respect of a child should not be made directly to its parent, the Board may direct that the payment be made to such person or be applied in such manner as the Board may deem most for the advantage of the child.

(5) Exclusive of the expenses of burial of the workman, the compensation payable as provided by subsection (1) shall not in any case exceed 55 per cent, of the average monthly earnings of the workman mentioned in section 37, and if the compensation payable under that subsection would in any case exceed that percentage it shall be reduced accordingly, and where several persons are entitled to monthly payments the payments shall be reduced proportionately. 1915, c. 24, s. 14 (c).

34. (1) If a dependant widow marries the monthly payments to her shall cease, but she shall be entitled in lieu of them to a lump sum equal to the monthly payments for two years and such lump sum shall be payable within one month after the day of her marriage.

(2) Subsection (1) shall not apply to payments to a widow in respect of a child.

35. A monthly payment in respect of a child shall cease when the child attains the age of 16 years or dies.

36. Where a workman leaves no dependants such sum as the Board may deem reasonable for the expenses of his medical attendance, nursing, care and maintenance and of his burial shall be paid to the persons to whom such expenses are due. 1915, c. 24, s. 15.

37. Where permanent total disability results from the injury the amount of the compensation shall be a weekly payment during the life of the workman equal to 55 per cent. of his average weekly earnings during the previous twelve months if he has been so long employed, but if not then for any less period during which he has been in the employment of his employer.

38. (1) Where permanent partial disability results from the injury the compensation shall be a weekly payment of 55 per cent. of the difference between the average weekly earnings of the workman before the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident and the compensation shall be payable during the lifetime of the workman.

(2) Where the impairment of the earning capacity of the workman does not exceed 10 per cent. of his earning capacity instead of such weekly payment the Board shall, unless in the opinion of the Board it would not be to the advantage of the workman to do so, direct that such lump sum as may be deemed to be the equivalent of it shall be paid to the workman.

39. Where temporary total disability results from the injury the compensation shall be the same as that prescribed by section 37, but shall be payable only so long as the disability lasts.

40. Where temporary partial disability results from the injury the compensation shall be the same as that prescribed by section 38, but shall be payable only so long as the disability lasts and subsection (2) of that section shall apply.

41. (1) Average earnings shall be computed in such a manner as is best calculated to give the rate per week or month at which the workman was remunerated but not so as in any case to exceed the rate of \$2,000 per annum.

(2) Where owing to the shortness of the time during which the workman was in the employment of his employer or the casual nature of his employment or the terms of it, it is impracticable to compute the rate of remuneration as of the date of the accident regard may be had to the average weekly or monthly amount which during the twelve months previous to the accident was being earned by a person in the same grade employed at the same work by the same employer, or if there is no person so employed then by a person in the same grade employed in the same class of employment and in the same locality.

(3) Where the workman has entered into concurrent contracts of service with two or more employers under which he worked at one time for one of them and at another time for another of them his average earnings shall be computed on the basis of what he would probably have been earning if he had been employed solely in the employment of the employer for whom he was working at the time of the accident.

(4) Employment by the same employer shall mean employment by the same employer in the grade in which the workman was employed at the time of the accident uninterrupted by absence from work due to illness or any other unavoidable cause.

(5) Where the employer was accustomed to pay the workman a sum to cover any special expenses entailed on him by the nature of his employment that sum shall not be reckoned as part of his earnings.

(6) Where in any case it seems more equitable, the Board may award compensation, having regard to the earnings of the workman at the time of the accident. 1915, c. 24, s. 16.

42. (1) In fixing the amount of a weekly or monthly payment regard shall be had to any payment, allowance or benefit which the workman may receive from his employer during the period of his disability, including any pension, gratuity or other allowance provided wholly at the expense of the employer.

(2) Where the compensation is payable out of the accident fund any sum deducted from the compensation under subsection (1) may be paid to the employer out of the accident fund.

43. The Board may wherever it is deemed advisable provide that the payments of compensation may be fortnightly or monthly instead of weekly, or where the workman or dependant is not a resident of Ontario or ceases to reside therein may otherwise fix the periods of payment or commute the compensation as the Board may deem proper 1915, c. 24, s. 17.

44. Where a workman or a dependant is an infant under the age of 21 years or under any other legal disability the compensation to which he is entitled may be paid to such person or be applied in such manner as the Board may deem most for his advantage.

#### The Workmen's Compensation Board.

45. There is hereby constituted a Commission for the administration of this Part to be called "The Workmen's Compensation Board," which shall consist of three members to be appointed by the Lieutenant-Governor in Council and shall be a body corporate. 1915, c. 24, s. 18.

46. (1) One of the Commissioners shall be appointed by the Lieutenant-Governor in Council to be the Chairman of the Board and he shall hold that office while he remains a member of the Board and another of the Commissioners shall be appointed by the Lieutenant-Governor in Council Vice-Chairman of the Board.

(2) In the absence of the Chairman or in case of his inability to act or if there is a vacancy in the office, the Vice-Chairman may act as and shall have all the powers of the Chairman.

47. (1) In the case of the death, illness or absence from Ontario of a Commissioner or of his inability to act from any cause the Lieutenant-Governor in Council may appoint some person to act *pro tempore* in his stead and the person so appointed shall have all the powers and perform all the duties of a Commissioner.

(2) Subsection (1) shall apply in the case of the Chairman of the Board as well as in the case of any other member of it.

48. Where the Vice-Chairman appears to have acted for or instead of the Chairman it shall be conclusively presumed that he so acted for one of the reasons mentioned in the next preceding subsection.

49. Each Commissioner shall, subject to section 50, hold office during good behaviour but may be removed at any time for cause.

50. Unless otherwise directed by the Lieutenant-Governor in Council a Commissioner shall cease to hold office when he attains the age of 75 years.

51. Each of the Commissioners shall devote the whole of his time to the performance of his duties under this Part.

52. The salary of the Chairman shall be \$10,000 per annum, the salary of the Vice-Chairman shall be \$8,500 per annum, and the salary of the other Commissioner shall be \$7,500 per annum, and such salaries shall be payable out of the Consolidated Revenue Fund.

53. The presence of two Commissioners shall be necessary to constitute a quorum of the Board.

54. A vacancy in the Board shall not if there remain two members of it impair the authority of such two members to act.

55. The Board shall have the like powers as the Supreme Court for compelling the attendance of witnesses and of examining them under oath, and compelling the production of books, papers, documents and things.

56. (1) A Commissioner shall not directly or indirectly:—

(a) have, purchase, take or become interested in any industry, to which this Part applies or any bond, debenture or other security of the person owning or carrying it on;

(b) be the holder of shares, bonds, debentures or other securities of any company which carries on the business of employers' liability or accident insurance;

(c) have any interest in any device, machine, appliance, patented process or article which may be required or used for the prevention of accidents.

(2) If any such industry, or interest therein, or any such share, bond, debenture, security, or thing comes to or becomes vested in a Commissioner by will or by operation of law and he does not within three months thereafter sell and absolutely dispose of it he shall cease to hold office.

57. The offices of the Board shall be situated in the city of Toronto and its sittings shall be held there, except where it is expedient to hold sittings elsewhere, and in that case sittings may be held in any part of Ontario.

58. The Commissioners shall sit at such times and conduct their proceedings in such manner as they may deem most convenient for the proper discharge and speedy despatch of business.

59. (1) The Board shall appoint a Secretary and a Chief Medical Officer and may appoint such auditors, actuaries, accountants, inspectors, medical referees, other officers, clerks and servants as the Board may deem necessary for carrying out the provisions of this Part and may prescribe their duties and, subject to the approval of the Lieutenant-Governor in Council, may fix their salaries. 1915, c. 24, s. 19.

(2) Every person so appointed shall hold office during the pleasure of the Board.

60. (1) The Board shall have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under this Part and as to any matter or thing in respect to which any power, authority or discretion is conferred upon the Board, and the action or decision of the Board thereon shall be final and conclusive and shall not be open to question or review in any court and no proceedings by or before the Board shall be restrained by injunction, prohibition or other process or proceeding in any court or be removable by *certiorari* or otherwise into any court.

(2) Without thereby limiting the generality of the provisions of subsection (1), it is declared that such exclusive jurisdiction shall extend to determining:

(a) Whether any industry or any part, branch or department of any industry falls within any of the classes for the time being included in Schedule 1, and if so which of them;

(b) Whether any industry or any part, branch or department of any industry falls within any of the classes for the time being included in Schedule 2, and if so which of them;

(c) Whether any part of any such industry constitutes a part, branch or department of an industry within the meaning of Part I.

(3) Nothing in subsection (1) shall prevent the Board from reconsidering any matter which has been dealt with by it or from rescinding, altering or amending any decision or order previously made, all which the Board shall have authority to do.

61. The Board may award such sum as it may deem reasonable to the successful party to a contested claim for compensation or to any other contested matter as compensation for the expenses he has been put to by reason of or incidental to the contest and an order of the Board for the payment by an employer of any sum so awarded when filed in the manner provided by section 63 shall become a judgment of the Court in which it is filed and may be enforced accordingly.

62. (1) The Board may act upon the report of any of its officers and any inquiry which it shall be deemed necessary to make may be made by any one of the Commissioners or by an officer of the Board or some other person appointed to make the inquiry, and the Board may act upon his report as to the result of the inquiry.

(2) The person appointed to make the inquiry shall for the purposes of the inquiry have all the powers conferred upon the Board by section 55.

63. An order of the Board for the payment of compensation by an employer who is individually liable to pay the compensation or any other order of the Board for the payment of money made under the authority of this Part, or a copy of any such order certified by the Secretary to be a true copy may be filed with the clerk of any county or district court and when so filed shall become an order of that court and may be enforced as a judgment of the court.

64. (1) The Board may make such regulations as may be deemed expedient for carrying out the provisions of this Part and to meet cases not specially provided for by this Part, and a certified copy of every Regulation so made shall be transmitted forthwith to the Provincial Secretary and any Regulation may within one month after it has been received by the Provincial Secretary be disallowed by the Lieutenant-Governor in Council.

(2) Every Regulation which is approved by the Lieutenant-Governor in Council shall immediately after approval or on the day named by him for that purpose become effective, and after the period for disallowance has expired every other Regulation which has not been disallowed shall become effective and every Regulation which has become effective shall be forthwith published in the Ontario Gazette.

(3) Every person who contravenes any such Regulation after it has become effective or any rule of an association formed as provided by section 101, which has been approved and ratified as provided by that section shall for every contravention incur a penalty not exceeding \$50.<sup>1</sup>

(4) Where an action in respect of an injury is brought against an employer by a workman or a dependant the Board shall have jurisdiction upon the application of the employer to determine whether the workman or dependant is entitled to maintain the action or only to compensation under Part I, and if the Board determines that the only right of the workman or dependant is to such compensation the action shall be forever stayed.

65. The accounts of the Board shall be audited by the Provincial Auditor or by an auditor appointed by the Lieutenant-Governor in Council for that purpose and the salary or remuneration of the last mentioned auditor shall be paid by the Board.

66. (1) The Board shall on or before the 15th day of January in each year make a report to the Lieutenant-Governor of its transactions during the next preceding calendar year and such report shall contain such particulars as the Lieutenant-Governor in Council may prescribe.

(2) Every such report shall be forthwith laid before the Assembly if the Assembly is then in session and if it is not then in session within fifteen days after the opening of the next session.

67. The Superintendent of Insurance or an officer of his department named by him for that purpose shall once in each year and oftener if so required by the Lieutenant-Governor in Council examine into the affairs and business of the Board for the purpose of determining as to the sufficiency of the accident fund and shall report thereon to the Lieutenant-Governor in Council.

#### Contribution By the Province.

68. To assist in defraying the expenses incurred in the administration of this Part there shall be paid to the Board out of the Consolidated Revenue Fund such annual sum not exceeding \$100,000 as the Lieutenant-Governor in Council may direct.

#### Accident Fund.

69. (1) An accident fund shall be provided by contributions to be made in the manner hereinafter provided, by the employers in the classes or groups of industries, for the time being included in Schedule 1, and compensation payable in respect of accidents which happen in any industry included in any of such classes or groups, shall be payable and shall be paid out of the accident fund.

(2) Notwithstanding the generality of the description of the classes for the time being included in Schedule 1 none of the industries included in Schedule 2 shall form part of or be deemed to be included in any of such classes, unless it is added to Schedule 1 by the Board under the authority conferred by this Part.

<sup>1</sup> The regulations issued under this section deal for the most part with classification in Schedule 1, and with inclusion and exclusion of various industries. A few regulations cover other matters such as the penalty for default or delay in paying assessments, the manner in which employers in Schedule 2 are to make payment of compensation, and the posting up of information concerning the Act.



70. Where at any time there is not money available for payment of the compensation which has become due, without resorting to the reserves the Board may pay such compensation out of the reserves and shall make good the amount withdrawn from the reserves by making a special assessment upon the employers liable to provide the compensation or by including it in a subsequent annual assessment, or where it is for any reason deemed inexpedient to withdraw the amount required from the reserves the Lieutenant-Governor in Council may direct that the same be advanced out of the Consolidated Revenue Fund and in that case the amount advanced shall be collected by a special assessment and when collected shall be paid over to the Treasurer of Ontario.

71. It shall be the duty of the Board at all times to maintain the accident fund so that with the reserves, exclusive of the special reserve, it shall be sufficient to meet all the payments to be made out of the fund in respect of compensation as they become payable and so as not unduly or unfairly to burden the employers in any class in future years with payments which are to be made in those years in respect of accidents which have previously happened.

72. (1) Subject to section 91 it shall not be obligatory upon the Board to provide and maintain a reserve fund which shall at all times be equal to the capitalized value of the payments of compensation which will become due in future years unless the Board shall be of opinion that it is necessary to do so in order to comply with the provisions of section 71.

(2) It shall not be necessary that the reserve fund shall be uniform as to all classes but subject to sections 71 and 91 it shall be discretionary with the Board to provide for a larger reserve fund in one or more of the classes than in another or others of them.

73. If any trade or business connected with the industries of:—

Lumbering, mining, quarrying, fishing, manufacturing, building, construction, engineering, transportation, operation of electric power lines, waterworks and other public utilities, navigation, operation of boats, ships, tugs and dredges, operation of grain elevators and warehouses; teaming, scavenging and street cleaning; painting, decorating and renovating, dyeing and cleaning; or any occupation incidental thereto or immediately connected therewith, not included in Schedule 2, is not included in any of the classes mentioned in Schedule 1, the Board shall assign it to an appropriate class or form an additional class or classes embracing the trades or businesses not so included, and until that is done except in so far as it may be otherwise provided by the Regulations such trades and businesses shall together constitute a separate group or class and shall be deemed to be included in Schedule 1.

74. (1) The Board shall have jurisdiction and authority to:—

(a) re-arrange any of the classes for the time being included in Schedule 1, and withdraw from any class any industry included in it and transfer it wholly or partly to any other class or form it into a separate class, or exclude it from the operation of Part 1;

(b) establish other classes including any of the industries which are for the time being included in Schedule 2, or are not included in any of the classes in Schedule 1;

(c) add to any of the classes for the time being included in Schedule 1, any industry which is not included in any of such classes.

(2) Where in the opinion of the Board the hazard to workmen in any of the industries embraced in a class is less than that in another or others of such industries, or where for any other reason it is deemed proper to do so, the Board may sub-divide the class into sub-classes and if that is done the Board shall fix the percentages or proportions of the contributions to the accident fund which are to be payable by the employers in each sub-class.

(3) Separate accounts shall be kept of the amounts collected and expended in respect of every class and sub-class, but for the purpose of paying compensation the accident fund shall, nevertheless, be deemed one and indivisible.

(4) Where a greater number of accidents has happened in any industry than in the opinion of the Board ought to have happened if proper precautions had been taken for the prevention of accidents in it, or where in the opinion of the Board the ways, works, machinery or appliances in any industry are defective, inadequate or insufficient the Board may so long as such condition in its opinion continues to exist add to the amount of any contribution to the accident fund for which an employer is liable in respect of such industry such a percentage thereof as the Board may deem just and may assess and levy the same upon such employer, or the Board may exclude such industry from the class in which it is included, and if it is so excluded the employer shall be individually liable to pay the compensation to which any of his workmen or their dependents may thereafter become entitled and such industry shall be included in Schedule 2.



(5) Any additional percentage levied and collected under the next preceding subsection shall be added to the accident fund or applied in reduction of the assessment upon the other employers in the class or sub-class to which the employer from whom it is collected belongs as the Board may determine.

75. (1) The Board may in the exercise of the powers conferred by the next preceding section withdraw or exclude from a class industries in which not more than a stated number of workmen are usually employed and may afterwards add them to the class or classes from which they have been withdrawn, and any industry so withdrawn or excluded shall not thereafter be deemed to be included in schedule 1 or schedule 2.

(2) Where industries are withdrawn or excluded from a class under the authority of subsection (1), an employer in any of them may, nevertheless, elect to become a member of the class to which but for the withdrawal or exclusion he would have belonged, and if he so elects he shall be a member of that class and as such liable to contribute to the accident fund, and his industry shall be deemed to be embraced in schedule 1.

(3) Notice of the election shall be given to the secretary of the Board and the election shall be deemed to have been made when the notice is received by him.

76. The powers conferred by the next preceding two sections may be exercised from time to time and as often as in the opinion of the Board occasion may require.

77. A regulation or order made by the Board under the authority of clause (a) or clause (b) of subsection (1) of section 74, shall not have any force or effect unless approved by the Lieutenant-Governor in Council, and when so approved it shall be published in the Ontario Gazette and shall take effect on the expiration of one month from the first publication of it in the Ontario Gazette.

#### Statements to be Furnished by Employers.

78. (1) Subject to the regulations every employer shall not later than three months before the day named by proclamation as mentioned in section 3 and yearly thereafter on or before such date as shall be prescribed by the Board and at such other time or times as it may by order or regulation of the Board be required, prepare and transmit to the Board a statement of the amount of the wages earned by all his employees during the year then last past, or any part thereof specified by the Board, and of the amount which he estimates he will expend for wages during the then current year or any part thereof specified by the Board, and such additional information as the Board may require, both verified by the statutory declaration of the employer or the manager of the business, or where the employer is a corporation by an officer of the corporation having a personal knowledge of the matters to which the declaration relates. 1915, c. 24, s. 20.

(2) Where the business of the employer embraces more than one branch of business or class of industry the Board may require separate statements to be made as to each branch or class of industry, and such statements shall be made, verified, and transmitted as provided by subsection (1).

(3) If any employer does not make and transmit to the Board the prescribed statement within the prescribed time the Board may base any assessment or supplementary assessment thereafter made upon him on such sum as in its opinion is the probable amount of the pay-roll of the employer and the employer shall be bound thereby, but if it is afterwards ascertained that such amount is less than the actual amount of the pay-roll the employer shall be liable to pay to the Board the difference between the amount for which he was assessed and the amount for which he would have been assessed on the basis of his pay-roll.

(4) If an employer does not comply with the provisions of subsection (1) or subsection (2), or if any statement made in pursuance of their provisions is not a true and accurate statement of any of the matters required to be set forth in it the employer for every such non-compliance and for every such statement shall incur a penalty not exceeding \$500.

79. (1) The Board and any member of it, and any officer or person authorized by it for that purpose shall have the right to examine the books and accounts of the employer and to make such other inquiry as the Board may deem necessary for the purpose of ascertaining whether any statement furnished to the Board under the provisions of section 78 is an accurate statement of the matters which are required to be stated therein or of ascertaining the amount of the pay-roll of any employer, or of ascertaining whether any industry or person is under the operation of Part I and whether in schedule 1 or schedule 2, and for the purpose of any such examination and inquiry the Board and the person so appointed shall have all the powers which may be conferred on a commissioner appointed under The Public Inquiries Act. 1915, c. 24, s. 21, part.

(2) An employer and every other person who obstructs or hinders the making of the examination and inquiry mentioned in subsection (1) or refuses to permit it to be made shall incur a penalty not exceeding \$500.

(3) Every member of the Board and every officer or person authorized by it to make examination or inquiry under this section shall have power and authority to require and take affidavits, affirmations or declarations as to any matter of such examination or inquiry and to take statutory declarations required under section 78, and in all such cases to administer oaths, affirmations and declarations and certify to the same having been made. 1915, c. 24, s. 21, part.

80. (1) If a statement is found to be inaccurate the assessment shall be made on the true amount of the pay-roll as ascertained by such examination and inquiry or if an assessment has been made against the employer on the basis of his pay-roll being as shown by the statement the employer shall pay to the Board the difference between the amount for which he was assessed and the amount for which he would have been assessed if the amount of the pay-roll had been truly stated, and by way of penalty a sum equal to such difference.

(2) The Board if satisfied that the inaccuracy of the statement was not intentional and that the employer honestly desired to furnish an accurate statement, may relieve him from the payment of the penalty provided for by subsection (1) or any part of it.

81. (1) The Board and any member of it and any officer or person authorized by it for that purpose shall have the right at all reasonable hours to enter into the establishment of any employer who is liable to contribute to the accident fund and the premises connected with it and every part of them for the purpose of ascertaining whether the ways, works, machinery or appliances therein are safe, adequate and sufficient and whether all proper precautions are taken for the prevention of accidents to the workmen employed in or about the establishment or premises and whether the safety appliances or safeguards prescribed by law are used and employed therein, or for any other purpose which the Board may deem necessary for the purpose of determining the proportion in which such employer should contribute to the accident fund.

(2) An employer and every other person who obstructs or hinders the making of any inspection made under the authority of subsection (1), or refuses to permit it to be made, shall incur a penalty not exceeding \$500.

82. (1) No officer of the Board and no person authorized to make an inquiry under this Part shall divulge or allow to be divulged except in the performance of his duties or under the authority of the Board any information obtained by him or which has come to his knowledge in making or in connection with an inspection or inquiry under this Part.

(2) Every person who contravenes any of the provisions of subsection (1) shall incur a penalty not exceeding \$50.

83. The penalties imposed by or under the authority of this Part shall be recoverable under The Ontario Summary Convictions Act and when collected shall be paid over to the Board and shall form part of the accident fund.

#### Assessments.

84. (1) The Board shall before the day named by proclamation as mentioned in section 3 make a provisional assessment on the employers in each class of such sum as in the opinion of the Board will be sufficient to meet the claims for compensation which will be payable by that class for the first year after the day so named and to meet the expenses of the Board in the administration of this Part for the year, and also to provide a reserve fund to pay the compensation payable in future years in respect of claims in that class for accidents happening in that year, of such an amount as the Board may deem necessary to prevent the employers in future years from being unduly or unfairly burdened with payments which are to be made in those years in respect of accidents which have previously happened.

(2) The sums to be so assessed may be either a percentage of the pay-rolls of the employers or a specific sum as the Board may determine.

(3) (Repealed by 1915, c. 24, s. 22).

85. (1) The Board shall in every year thereafter assess and levy upon the employers in each of the classes such percentage of pay-roll or such other rate or such specific sum as, allowing for any surplus or deficit in the class, it shall deem sufficient to pay the compensation during the current year in respect of injuries to workmen in the industries within the class, and to provide and pay the expenses of the Board in the administration of this Part for that year or so much thereof as may not be otherwise provided for, and also to provide a similar reserve fund to that mentioned in subsection (1) of section 84; and such assessments may, if the Board sees fit, be levied provisionally upon the estimate of pay-roll given by the employer or upon an estimate fixed by the Board and, after the actual pay-roll has been ascertained, adjusted to the correct amount; and the payment of assessments may, if the Board deems fit, be divided into instalments. 1915, c. 24, s. 23.

(2) Where the assessment is based on the pay-roll of the employer and there is included in it the wages or salary of a workman who has been paid more than at the rate of \$2,000 per annum the excess shall be deducted from the amount of the pay-roll and the assessment shall be based on the amount of it as so reduced.

(3) It shall not be necessary that the assessment upon the employers in a class or sub-class shall be uniform, but they may be fixed or graded in relation to the hazard of each or of any of the industries included in the class or sub-class.

86. (1) The Board shall determine and fix the percentage, rate or sum for which each employer is assessed under the provisions of either of the next preceding two sections, or the provisional amount thereof, and such employer shall pay to the Board the amount or provisional amount of his assessment within fifteen days after notice of the assessment and of such amount has been given to him, or where payment is to be made by instalments he shall pay the first instalment within such fifteen days and the remaining instalment or instalments at the time or times specified in such notice. 1915, c. 24, s. 24 (a).

(2) The notice may be sent by post to the employer and shall be deemed to have been given to him on the day on which the notice was posted. 1915, c. 24, s. 24 (b).

(3) Wherever at any time it appears that a statement or estimate of pay-roll upon which an assessment or provisional amount of assessment is based is too low the employer shall upon demand pay to the Board such sum, to be fixed by the Board, as shall be sufficient to bring the payment of assessment up to the proper amount; and payment of any such sum may be enforced in the same manner as the payment of any assessment may be enforced. 1915, c. 24, s. 24 (c).

87. If the amount realized from any assessment is insufficient for the purpose for which the assessment was made, the Board may make supplementary assessments to make up the deficiency, and section 86 shall apply to such assessments, but the Board may defer assessing for such deficiency until the next annual assessment is made and then include it in such assessment. 1915, c. 24, s. 25.

88. (1) Where any deficiency in the amount realized from any assessment in any class is caused by the failure of some of the employers in that class to pay their share of the assessment or by any disaster or other circumstance which, in the opinion of the Board, would unfairly burden the employers in that class, the deficiency or loss shall be made up by supplementary assessments upon the employers in all the classes and the provisions of section 86 shall apply to such assessments, but the Board may defer assessing for such deficiency or loss until the next annual assessment is made and then include it in such assessment. 1915, c. 24, s. 26 (a) (b).

(2) The Board may where it deems proper add to the assessment for any class or classes or for all the classes in Schedule 1 a percentage or sum for the purpose of raising a special fund to be laid aside and used to meet the loss arising from any disaster or other circumstance which, in the opinion of the Board, would unfairly burden the employers in any class. 1915, c. 24, s. 26 (c).

89. (1) If and so far as any deficiency mentioned in the next preceding two sections is afterwards made good wholly or partly by the defaulting employer the amount which shall have been made good shall be apportioned between the other employers in the proportions in which the deficiency was made up by them by the payment of supplementary assessments upon them and shall be credited to them in making the next assessment.

(2) If for any reason an employer liable to assessment is not assessed in any year he shall nevertheless be liable to pay to the Board the amount for which he should have been assessed, and payment of that amount may be enforced in the same manner as the payment of an assessment may be enforced.

(3) Any sum collected from an employer under subsection (2) shall be taken into account by the Board in making an assessment in a subsequent year on the employers in the class or sub-class to which such employer belonged.

90. Notwithstanding that the deficiency arising from a default in the payment of the whole or part of any assessment has been made up by a special assessment a defaulting employer shall continue liable to pay to the Board the amount of every assessment made upon him or so much of it as remains unpaid.

91. Whenever the Lieutenant-Governor in Council is of opinion that the condition of the accident fund is such that with the reserves, exclusive of the special reserve, it is not sufficient to meet all the payments to be made in respect of compensation as they become payable and so as not unduly or unfairly to burden the employers in any class in future years with payments which are to be made in those years in respect of accidents which have happened in previous years, he may require the Board to make a supplementary assessment of such sum as in his opinion is necessary to be added to the fund, and when such a requirement is made the Board shall forthwith make such supplementary assessment and it shall be made in like manner as is hereinbefore provided as to other special assessments and all the provisions of this Part as to special assessments shall apply to it.

92. In order to maintain the accident fund as provided by section 71 the Board may from time to time and as often as may be deemed necessary include in any sum to be assessed upon the employers and may collect from them such sums as may be deemed necessary for that purpose and the sums so collected shall form a reserve fund and shall be invested in securities in which a trustee may by law invest trust moneys.

93. If an assessment or a special assessment is not paid at the time when it becomes payable, the defaulting employer shall be liable to pay and shall pay as a penalty for his default such a percentage upon the amount unpaid as may be prescribed by the Regulations or may be determined by the Board.

93a. (1) Any employer who refuses or neglects to make or transmit any pay-roll return or other statement required to be furnished by him under the provisions of sections 78 or 96, or who refuses or neglects to pay any assessment or special or supplementary assessment or the provisional amount of any assessment, or any instalment or part thereof, shall, in addition to any penalty or other liability to which he may be subject, pay to the Board the full amount or capitalized value, as determined by the Board, of the compensation payable in respect of any accident to a workman in his employ which happens during the period of such default, and the payment of such amount may be enforced in the same manner as the payment of an assessment may be enforced.

(2) The Board, if satisfied that such default was excusable, may in any case relieve such employer in whole or in part from liability under this section. 1915, c. 24, s. 27.

94. Where default is made in the payment of any assessment, or special assessment, or any part of it the Board may issue its certificate stating that the assessment was made, the amount remaining unpaid on account of it and the person by whom it was payable and such certificate or a copy of it certified by the Secretary to be a true copy may be filed with the clerk of any county or district court and when so filed shall become an order of that court and may be enforced as a judgment of the court against such person for the amount mentioned in the certificate.

95. (1) If an assessment or a special assessment or any part of it remains unpaid for 30 days after it has become payable, the Board, in lieu of or in addition to proceeding as provided by the next preceding section, may issue its certificate stating the name and residence of the defaulting employer, the amount unpaid on the assessment, the establishment in respect of which it is payable, and upon the delivery of the certificate to the clerk of the municipality in which the establishment is situate he shall cause the amount so remaining unpaid as stated in the certificate to be entered upon the collector's roll as if it were taxes due by the defaulting employer in respect of such establishment, and it shall be collected in like manner as taxes are levied and collected and the amount when collected shall be paid over by the collector to the Board.

(2) The collector shall be entitled to add five per cent thereof to the amount to be collected and to retain such percentage for his services in making the collection.

96. (1) Where an industry coming within any of the classes for the time being included in Schedule 1 is established or commenced after an assessment has been made it shall be the duty of the employer forthwith to notify the Board of the fact and to furnish to the Board an estimate of the probable amount of his pay-roll for the remainder of the year, verified by a statutory declaration, and to pay to the Board a sum equal to that for which he would have been liable if his industry had been established or commenced before such assessment was made or so much thereof as the Board may deem reasonable.

(2) The Board shall have the like powers and be entitled to the like remedies for enforcing payment of the sum payable by the employer under subsection (1) as it possesses or is entitled to in respect of assessments.

(3) For default in complying with the provisions of subsection (1) the employer shall incur the like penalty as is provided with respect to defaults by section 78.

97. (1) Where an employer engages in any of the industries for the time being included in Schedule 1 and has not been assessed in respect of it, the Board, if it is of opinion that the industry is to be carried on only temporarily, may require the employer to pay or to give security for the payment to the Board of a sum sufficient to pay the assessment for which the employer would have been liable if the industry had been in existence when the next preceding assessment was made.

(2) The Board shall have the like powers and be entitled to the like remedies for enforcing payment of any such sum as it possesses or is entitled to in respect of assessments.

(3) An employer who makes default in complying with the provisions of subsection (1) shall incur a penalty not exceeding \$200 and an additional penalty not exceeding \$20 per day for every day on which the default continues.

98. In the case of a work or service performed by an employer in any of the industries for the time being included in Schedule 1 for which the employer would be entitled to a lien under The Mechanics' and Wage Earners' Lien Act it shall be the duty of the owner as defined by that Act to see that any sum which the employer is liable to contribute to the accident fund is paid and if any such owner fails to do so he shall be personally liable to pay it to the Board, and the Board shall have the like powers and be entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment.

98a. (1) There shall be included among the debts which, under The Assignments and Preferences Act, The Trustee Act, and The Ontario Companies Act, are, in the

distribution of the property, in the case of an assignment or death or in the distribution of the assets of a company being wound up, under the said Acts respectively, to be paid in priority to all other debts, the amount of any assessment or compensation the liability whereof accrued before the date of the assignment or death or before the date of the commencement of the winding up, and the said Acts shall have effect accordingly.

(2) When the compensation is a periodical payment the liability in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum, to be determined by the Board, for which the periodical payments may be commuted.

(3) Priority in respect of any individual claim for compensation shall not exceed \$500. 1915, c. 24, s. 28.

#### Returns of Accidents.

99. (1) Every employer shall within three days after the happening of an accident to a workman in his employment by which the workman is disabled from earning full wages notify the Board in writing of the:—

- (a) happening of the accident and nature of it;
- (b) time of its occurrence;
- (c) name and address of the workman;
- (d) place where the accident happened;
- (e) name and address of the physician or surgeon, if any, by whom the workman

was or is attended for the injury; and shall in any case furnish such further details and particulars respecting any accident or claim to compensation as the Board may require. 1915, c. 24, s. 29.

(2) For every contravention of subsection 1 the employer shall incur a penalty not exceeding \$50.

#### Industrial Diseases.

100. (1) Where a workman suffers from an industrial disease and is thereby disabled from earning full wages at the work at which he was employed or his death is caused by an industrial disease and the disease is due to the nature of any employment in which he was engaged at any time within twelve months previous to the date of his disablement, whether under one or more employments the workman or his dependants shall be entitled to compensation as if the disease were a personal injury by accident and the disablement were the happening of the accident, subject to the modifications hereinafter mentioned, unless at the time of entering into the employment he had wilfully and falsely represented himself in writing as not having previously suffered from the disease.

(2) Where the compensation is payable by an employer individually it shall be payable by the employer who last employed the workman during such twelve months in the employment to the nature of which the disease was due.

(3) The workman or his dependants if so required shall furnish the employer mentioned in the next preceding subsection with such information as to the names and addresses of all the other employers by whom he was employed in the employment to the nature of which the disease was due during such twelve months as such workman or his dependants may possess, and if such information is not furnished or is not sufficient to enable that employer to take the proceedings mentioned in subsection (4) that employer upon proving that the disease was not contracted while the workman was in his employment shall not be liable to pay compensation.

(4) If that employer alleges that the disease was in fact contracted while the workman was in the employment of some other employer he may bring such employer before the Board and if the allegation is proved that other employer shall be the employer by whom the compensation shall be paid.

(5) If the disease is of such a nature as to be contracted by a gradual process any other employers who during such twelve months employed the workman in the employment to the nature of which the disease was due shall be liable to make to the employer by whom the compensation is payable such contributions as the Board may determine to be just.

(6) The amount of the compensation shall be fixed with reference to the earnings of the workman under the employer by whom the compensation is payable and the notice provided for by section 20 shall be given to the employer who last employed the workman during such twelve months in the employment to the nature of which the disease was due and the notice may be given notwithstanding that the workman has voluntarily left the employment.

(7) If the workman at or immediately before the date of the disablement was employed in any process mentioned in the second column of schedule 3 and the disease contracted is the disease in the first column of the schedule set opposite to the description of the process the disease shall be deemed to have been due to the nature of that employment unless the contrary is proved.

(8) Nothing in this section shall affect the right of a workman to compensation in respect of a disease to which this section does not apply if the disease is the result of an injury in respect of which he is entitled to compensation under this Part.

## Formation of Associations and Committees.

101. (1) The employers in any of the classes for the time being included in schedule 1 may form themselves into an association for accident prevention and may make rules for that purpose.

(2) If the Board is of opinion that an association so formed sufficiently represents the employers in the industries included in the class, the Board may approve such rules, and when approved by the Board and by the Lieutenant-Governor in Council they shall be binding on all the employers in industries included in the class.

(3) Where an association under the authority of its rules appoints an inspector or an expert for the purpose of accident prevention, the Board may pay the whole or any part of the salary or remuneration of such inspector or expert out of the accident fund or out of that part of it which is at the credit of any one or more of the classes as the Board may deem just.

(4) The Board may in any case where it deems proper make a grant toward the expenses of any such association. 1915, c. 24, s. 30, part.

(5) Any moneys paid by the Board under this section shall be charged against the class represented by such association and levied as part of the assessment against such class. 1915, c. 24, s. 30, part.

(6) The word "class" in this section shall include sub-class or such part of a class or such number of classes or parts of classes in Schedule 1 as may be approved by the Board. 1915, c. 24, s. 30, part.

102 (1) The employers in any of the classes for the time being included in schedule 1 may appoint a committee of themselves, consisting of not more than five employers, to watch over their interests in matters to which this Part relates.

(2) Where a claim is for compensation for an injury for which the employers in any such class would be liable, if the Board is of the opinion that the committee sufficiently represents such employers, and the committee certifies to the Board that it is satisfied that the claim should be allowed, the Board may act on the certificate and may also act upon the certificate of the committee as to the proper sum to be awarded for compensation if the workman or dependant is satisfied with the sum named in the certificate.

(3) The committee may be the medium of communication on the part of the class with the Board.

## Contribution by Employers in Schedule 2.

103. Employers in industries for the time being included in Schedule 2 shall pay to the Board such proportion of the expenses of the Board in the administration of this Part as the Board may deem just and determine, and the sum payable by them shall be apportioned between such employers and assessed and levied in like manner as in the case of assessments for contributions to the accident fund, and the provisions of this Part as to making such assessment shall apply (*mutatis mutandis*) to assessments made under the authority of this section.

104. This part shall apply only to the industries mentioned in Schedules 1 and 2 and to such industries as shall be added to them under the authority of this Part and to employments therein.

## PART II.

105. Subject to section 109 sections 106 to 108 shall apply only to the industries to which Part I does not apply and to the workmen employed in such industries, but out-workers and persons engaged in clerical work and not exposed to the hazards incident to the nature of the work carried on in the employment and persons whose employment is of a casual nature and who are employed otherwise than for the purposes of the employer's trade or business, who are employed in industries under the operation of Part I but who are excluded from the benefit of the provisions of Part I, shall not by this section be excluded from the benefit of the provisions of sections 106 to 108. 1915, c. 24, s. 31.

106. (1) Where personal injury is caused to a workman by reason of any defect in the condition or arrangement of the ways, works, machinery, plant, buildings or premises connected with, intended for or used in the business of his employer or by reason of the negligence of his employer or of any person in the service of his employer acting within the scope of his employment the workman or if the injury results in death the legal personal representatives of the workman and any person entitled in case of death shall have an action against the employer, and if the action is brought by the workman he shall be entitled to recover from the employer the damages sustained by the workman by or in consequence of the injury, and if the action is brought by the legal personal representatives of the workman or by or on behalf of persons entitled to damages under The Fatal Accidents Act they shall be entitled to recover such damages as they are entitled to under that Act.



(2) Where the execution of any work is being carried into effect under any contract, and the person for whom the work is done owns or supplies any ways, works, machinery, plant, buildings or premises, and by reason of any defect in the condition or arrangement of them personal injury is caused to a workman employed by the contractor or by any sub-contractor, and the defect arose from the negligence of the person for whom the work or any part of it is done or of some person in his service and acting within the scope of his employment, the person for whom the work or that part of the work is done shall be liable to the action as if the workman had been employed by him, and for that purpose shall be deemed to be the employer of the workman within the meaning of this Act, but any such contractor or sub-contractor shall be liable to the action as if this subsection had not been enacted but not so that double damages shall be recoverable for the same injury.

(3) Nothing in subsection (2) shall affect any right or liability of the person for whom the work is done and the contractor or sub-contractor as between themselves.

(4) A workman shall not by reason only of his continuing in the employment of the employer with knowledge of the defect or negligence which caused his injury be deemed to have voluntarily incurred the risk of the injury.

107. A workman shall hereafter be deemed not to have undertaken the risks due to the negligence of his fellow workmen and contributory negligence on the part of a workman shall not hereafter be a bar to recovery by him or by any person entitled to damages under The Fatal Accidents Act in an action for the recovery of damages for an injury sustained by or causing the death of the workman while in the service of his employer for which the employer would otherwise have been liable.

108. Contributory negligence on the part of the workman shall nevertheless be taken into account in assessing the damages in any such action.

109. This Act shall not apply to farm labourers or domestic or menial servants or their employers.

110. The Workmen's Compensation for Injuries Act, being Chapter 146 of the Revised Statutes of Ontario, 1914, is hereby repealed.

111. This Part shall take effect on, from and after the day named in the proclamation mentioned in section 3.

#### SCHEDULE 1.

Industries the Employers in which are Liable to Contribute to the Accident Fund.

(As altered by Regulations.)

Class 1.—Lumbering; logging, river-driving, rafting, booming; saw-mills, shingle-mills; lath mills; manufacture of veneer, excelsior, staves, spokes, or headings; lumber yards (including the delivery of lumber) carried on in connection with saw-mills; the creosoting of timbers.

Class 2.—Pulp and paper mills.

Class 3.—Manufacture of furniture, interior woodwork, organs, pianos, piano actions, canoes, small boats, coffins, wicker and rattan ware, mattresses, bed-springs, artificial limbs, cork articles, cork carpets or linoleum; upholstering, picture framing and cabinet work.

Class 4.—Planing mills, sash and door factories, manufacture of wooden and corrugated paper boxes, cheese boxes, mouldings, window and door screens, window shades, carpet sweepers, wooden toys, articles and wares or baskets, matches or shade rollers; lumber yards (including the delivery of lumber) carried on in connection with planing mills or sash and door factories; cooperage, not including the making of staves or headings.

Class 5.—Mining; reduction of ores and smelting; preparation of metals or minerals; boring and drilling including sinking of artesian wells (except when done by an employer coming under Class 13); manufacture of calcium carbide, carborundum or alundum.

Class 6.—Sand, shale, clay or gravel pits; marble works, stone cutting or dressing; manufacture of brick, tile, terra-cotta, fireproofing, paving blocks, sewer pipe, roof tile, plaster blocks, plaster board, slate or artificial stone.

Sub-class A of Class 6.—Quarries, stone crushing, lime kilns; manufacture of cement.

Class 7.—Manufacture of glass, glass products, glassware, porcelain or pottery.

Class 8.—Iron, steel, or metal foundries; rolling mills; manufacture of castings, forgings, heavy engines, locomotives, machinery, safes, anchors, cables, rails, shafting, wires, tubing, pipes, shot, sheet metal, boilers, furnaces, stoves, structural steel, iron or metal.

Class 10.—Manufacture of small castings or forgings, metal wares, instruments, utensils and articles, hardware, nails, wire goods, screens, bolts, metal beds, sanitary, water, gas or electric fixtures, light machines, typewriters, cash registers, adding machines, carriage mountings, bicycles, metal toys, tools, cutlery, instruments, sheet metal products, buttons of metal, ivory, pearl or horn, dry batteries, cameras, sporting



goods, firearms, windmills, ivory articles, rubber stamps, pads or stencils; machine shops, not elsewhere included in Schedule 1 or Schedule 2; the industry of carrying on a blacksmith shop.

Class 11.—Manufacture of agricultural implements, threshing machines, traction engines, wagons, carriages, sleighs, vehicles, automobiles, motor trucks, toy wagons, sleighs or baby carriages; car shops.

Class 12.—Manufacture of gold or silverware, platedware, watches, watch-cases, clocks, jewellery, or musical instruments.

Class 13.—Manufacture of chemicals, corrosive acids, or salts, ammonia, gasoline, petroleum, petroleum products, celluloid, gas, charcoal, artificial ice, including the handling and delivery thereof; wood alcohol, celluloid articles; the manufacture, transmission and distribution of natural or artificial gas and operations connected therewith; the cutting, storing, handling and delivery of natural ice.

Sub-class A of Class 13.—The manufacture of fireworks, gunpowder, ammunition, nitro-glycerine, dynamite, gun-cotton or other high explosives.

Class 14.—Manufacture of paint, colour, varnish, oil, japans, turpentine, printing ink, printers' rollers, tar, tarred, pitched or asphalted paper.

Class 15.—Distilleries, breweries; manufacture of spirituous or malt liquors, malt, alcohol, wine, vinegar, cider, mineral water, soda water, or methylated spirits.

Class 16.—Manufacture of non-hazardous chemicals, drugs, medicines, dyes, extracts, pharmaceutical or toilet preparations, soaps, candles, perfumes, non-corrosive acids or chemical preparations; shoe-blackening or polish, yeast, baking powder or mucilage.

Class 17.—Milling; manufacture of cereals or cattle foods, warehousing or handling of grain or operation of grain elevators, threshing machines, clover mills, or ensilage cutters.

Class 18.—Manufacture or preparation of meats or meat products or glue.

Sub-class A of Class 18.—Packing houses, abattoirs; manufacture of fertilizers not incidental to any other industry.

Class 19.—Tanneries.

Class 20.—Manufacture of leather goods and products, belting, whips, saddlery, harness, trunks, valises, trusses, imitation leather, boots, shoes, gloves, umbrellas, rubber goods, rubber shoes, tubing, tires or hose.

Class 22.—Sugar refineries; manufacture of dairy products, butter, cheese, condensed milk or cream, biscuits, confectionery, spices, condiments, salt or any kind of starch; bakeries.

Sub-class A of Class 22.—Canning or preparation of fruit, vegetables, fish or food-stuffs; pickle factories.

Class 24.—Manufacture of tobacco, cigars, cigarettes or tobacco products.

Class 26.—Flax mills; manufacture of textiles or fabrics, spinning, weaving and knitting manufactories; manufacture of yarn, thread, hosiery, cloth, blankets, carpets, canvas, bags, shoddy, felt, cordage, ropes, fibre, brooms or brushes; asbestos goods, hair cloth and other hair goods; work in manilla or hemp; tents, awnings, and articles not otherwise specified made from fabrics or cordage; the erection of awnings by the manufacturer.

Class 27.—Manufacture of men's or women's clothing, underwear, shirts, collars, corsets, hats, caps, furs, robes, feathers or artificial flowers.

Class 28.—Power laundries; dyeing, cleaning or bleaching.

Class 29.—Printing, photo-engraving, engraving, lithographing, book-binding, embossing, manufacture of stationery, paper, cardboard boxes, bags, wall-paper, or papier-mache.

Class 30.—Heavy teaming or cartage; safe-moving or moving of boilers, heavy machinery, building stone and the like; warehousing, storage; teaming and cartage, including the hauling for hire by means of any vehicle, howsoever drawn or propelled, of any commodity or material; scavenging, street cleaning or removal of snow or ice.

Class 32.—Steel building and bridge construction; installation of elevators, fire-escapes, boilers, engines or heavy machinery; bridge building, not included in Schedule 2; the erection of windmills.

Class 33.—Bricklaying, mason work, stone setting, concrete work, plastering; manufacture of concrete blocks; structural carpentry, lathing, the installation of pipe organs; house wrecking or house moving.

Class 35.—Painting, decorating or renovating; sheet metal work and roofing.

Class 36.—Plumbing, sanitary or heating engineering, gas and steam fitting; operation of theatre stage or moving pictures; operation of passenger or freight elevators, where workmen are specially employed therefor and which are not operated in connection with an industry included in another class, including the operation of elevators used in connection with an industry to which this Schedule does not apply or in connection with a warehouse or shop or an office or other building or premises.

**Class 37.**—Sewer construction, tunnelling, shaft-sinking and well-digging; the maintenance and operation of a waterworks system; excavation work for cellars, foundations and canals; trenching less than 6 feet deep, for gas pipes, water-pipes or wire conduits; and all excavation work where the depth is more than 6 feet and the width is less than half the depth.

**Class 38.**—Construction, installation or operation of electric power lines or appliances, and power transmission lines; electric wiring of buildings and installation of lighting fixtures; construction or operation of an electric light system; construction and operation of power plants and electric light works, not included in Schedule 2; construction or operation of telegraph or telephone lines, construction or operation of telephone lines and works for the purposes of the business of a telephone company or used or to be used in connection with its business when constructed or operated by the company, except where such telephone lines or works are within the legislative authority of the Parliament of Canada.

**Class 41.**—Construction or operation of railways; road-making or repair of roads with machinery; making and repairing of roads of all kinds not included in Schedule 2; manufacture of asphalt material and paving material.

**Class 43.**—Ship-building, dredging, subaqueous construction or pile-driving; fishing, stevedoring, operation of and work upon wharves, operation of dry docks, not included in Schedule 2. 1915, c. 24, s. 33 (2).

**Class 73.**—All industries, trades, businesses, and occupations mentioned in section 73 of the Act, not otherwise classified and not included in Schedule 2.

(Note.—See sections 109, 69 (2), 6 (3), 3 (4), 6, 11, 12, 75 (2), and paragraphs (p); (n), (d), (i), (k), and (f) of 2 (1), and Regulations 43 to 50, 52, 53, and 63.)

## SCHEDULE 2.

Industries the Employers in which are Individually Liable to Pay the Compensation.

1. The trade or business, as defined by subsection (2) of section 2, of a municipal corporation, a public utilities commission, any other commission having the management and conduct of any work or service owned by or operated for a municipal corporation, a board of trustees of a police village and a school board. 1915, c. 24, s. 33 (a).

2. The construction or operation of railways operated by steam, electric or other motive power, street railways and incline railways, but not their construction when constructed by any person other than the company which owns or operates the railway.

3. The construction or operation of car shops, machine shops, steam and power plants and other works for the purposes of any such railway or used or to be used in connection with it when constructed or operated by the company which owns or operates the railway.

4. The construction or operation of telephone lines and works within the legislative authority of the Parliament of Canada, for the purposes of the business of a telephone company or used or to be used in connection with its business when constructed or operated by the company. (As altered by Regulation 35.)

5. The construction or operation of telegraph lines and works for the purposes of the business of a telegraph company or used or to be used in connection with its business when constructed or operated by the company.

6. The construction or operation of steam vessels and works for the purposes of the business of a navigation company or used or to be used in connection with its business when constructed or operated by the company, and all other navigation, towing, operation of vessels, and marine wrecking. 1915, c. 24, s. 33 (b).

7. The operation of the business of an express company which operates on or in conjunction with a railway, or of sleeping, parlor or dining cars, whether operated by the railway company, or by an express, sleeping, parlor or dining car company.

(Note.—See sections 2 (2), 69 (2), 6 (3), 3 (4), 6, 109 and paragraphs (p), (n), (d), (i), and (f) of 2 (1).)

## SCHEDULE 2.

| Description of Disease.               | Description of Process.   |
|---------------------------------------|---|
| Anthrax.                              | Handling of wool, hair, bristles, hides, and skins.                           |
| Lead Poisoning or its sequelæ.        | Any process involving the use of lead or its preparations or compounds.       |
| Mercury poisoning or its sequelæ.     | Any process involving the use of mercury or its preparations or compounds.    |
| Phosphorous poisoning or its sequelæ. | Any process involving the use of phosphorus or its preparations or compounds. |
| Arsenic poisoning or its sequelæ.     | Any process involving the use of arsenic or its preparations or compounds.    |
| Ankylostomiasis.                      | Mining.   |

## Employment Offices.

[Chapter 38, The Employment Agencies Act, is replaced by 1917, chapter 37.]

## Fire Prevention—Fire Escapes—Regulation of Explosives.

[Chapter 41, the Fire Marshals Act, amended by 1916, Chapter 55, empowers the Lieutenant-Governor in Council to appoint a Fire Marshal, Deputy Fire Marshal, officers, and assistants. The duties of the Fire Marshal, subject to any regulations made by the Lieutenant-Governor in Council, are set forth in section 5 as follows:—]

5. Subject to any regulations made under the authority of this Act, the Fire Marshal shall have authority and it shall be his duty to

(a) Investigate the cause, origin and circumstances of every fire occurring in Ontario by which the property of His Majesty or of any person has been destroyed or damaged, and, so far as it is possible, determine whether such fire was the result of carelessness or design;

(b) Upon complaint of any person having an interest in any adjacent or neighbouring building or property or without any complaint enter into and upon all buildings and premises for the purposes of examination, taking with him, if necessary, a peace officer or such other assistance as he may deem proper.

(c) Whenever he shall find in any building or upon any premises combustible material or conditions dangerous to the safety of such building or premises or which is so situated as to endanger other property, order such combustible material to be removed or such dangerous conditions to be remedied, by the owner or occupant of such building or premises;

(d) Keep a record of all fires reported to him with such facts, statistics and circumstances as may be required by the regulations;

(e) Report to the crown attorney of the proper county or district the facts as evidence in any case in which he finds that there is reason to suppose that loss by fire has been occasioned by criminal negligence or design, or in which he deems an offence has been committed against the provisions of this Act.

(f) Whenever he may deem it advisable in the public interests order the withholding of payment of insurance money which may become payable by reason of any fire for a period not exceeding 60 days from the occurrence of the fire pending an investigation of the cause and circumstances of the fire.

(g) Report to the Lieutenant-Governor in Council any contravention of any enactment passed by this Legislature with respect to the prevention of fires, the prevention of injury to persons attending public entertainments, private acetylene gas plants, the construction and maintenance of fire-escapes, and the means and adequacy of exits from public buildings.

[The Act gives full powers of investigation to the Fire Marshal, to the Superintendent of the Provincial Police, and to any deputy *pro tempore* appointed by the Marshal. The chiefs of municipal fire departments, and the clerks of municipalities in which no fire departments exist are constituted *ex-officio* assistants to the Fire

Marshal and are to report fires occurring in their respective municipalities. Fire insurance companies and also insured persons who sustain losses by fire are to furnish reports concerning the fires affecting them.

Provision is made for the maintenance of the office of the Fire Marshal by a tax on the premium receipts of fire insurance companies.

The Act also provides for enforcing orders regarding the removal of combustible material or the remedying of dangerous conditions, when the Fire Marshal has, upon investigation of any building or premises, found it necessary to issue such orders.]

## STATUTES OF 1915.

### Workmen's Compensation.

Chapter 6.—5. (1) Where any person employed under The Northern and North-Western Ontario Development Act, 1912, is killed or injured in the course of his employment, the Lieutenant-Governor in Council may direct payment to be made out of the sum set apart under the said Act of such amount of damages to the personal representative of the person killed or to any person so injured, and of such other sums required for the payment of expenses in connection with the accident or other circumstance causing such death or injury, as the Minister may certify to be reasonable and proper.

(2) The certificate of the Minister shall be conclusive as to the facts stated herein.

[The Act referred to above, chapter 2, 1912, authorizes the raising of a loan for the purpose of constructing works and improvements, of making roads, of improving and developing water powers, of advancing settlement and colonization, of improving means of transportation and of encouraging and assisting agriculture and reforestation in the North and Northwestern districts of Ontario.]

### Workmen's Compensation—Employers' Insurance.

Chapter 25.—1. This Act may be cited as The Workmen's Compensation Insurance Act, 1915.

2. In this Act "workman" shall include the dependants of a workman entitled to recover damages under The Fatal Accidents Act.

3. Where an employer is insured against his liability for damages to a workman under any Act of this Legislature the insurance shall be deemed to be for and shall enure to the benefit of the workman, and if a workman has suffered injury in respect of which he is entitled to recover damages from his employer, the insurer shall not, without the consent of the workman, pay to the employer the amount for which the insurer is liable to him in respect of such injury, unless or until the claim of the workman has been satisfied, and the workman if and when his right to recover the damages has been determined as against the employer shall be entitled to demand and recover from the insurer the amount of the damages and costs to the extent to which, but no further than, the employer is entitled to recover the same from the insurer.

4. This Act shall not apply to a workman who is entitled to compensation under Part I of The Workmen's Compensation Act.

### Fire Escapes on Factories. ✓

Chapter 41.—1. This Act may be cited as The Fire Accidents Act, 1915.

2. Where, by any statute or municipal by-law, or by any regulation made under a statute or by-law, the owner, proprietor, lessee, occupant, manager, or other person owning, occupying or having the control or management of a building, is required to provide fire escapes, means of exit, stairways, or other structures or any appliance for the safety of inmates or of the public in case of fire, and it is shown in any action brought against such person to recover damages for death occasioned by fire in such building, that such requirements or any of them have not been complied with at the time of the fire, it shall be presumed that the non-compliance was the cause of the death.

3. This Act shall apply only to cases in which the cause of action arises after the first day of January, 1917.

## MANITOBA.

### STATUTES OF 1913.

#### Employment of Women by Orientals.

Chapter 19. [Not yet in force.]-1. No person shall employ in any capacity any white woman or girl, or permit any white woman or girl to reside or lodge in, or to work in, or, save as a *bona fide* customer in a public apartment thereof only, to frequent any restaurant, laundry or other place of business or amusement owned, kept or managed by any Japanese, Chinaman or other Oriental person.

2. Any employer guilty of any contravention or violation of this Act shall, upon summary conviction, be liable to a penalty not exceeding one hundred dollars, and, in default of payment, to imprisonment for a term not exceeding two months.

3. This Act shall come into force upon proclamation of the Lieutenant-Governor in Council.

### REVISED STATUTES OF 1913.

#### Wages as Preferred Claims—In Assignments.

Chapter 12.—28. In case of an assignment under this Act, the assignee shall pay, in priority to the claims of the ordinary or general creditors of the person making the same, the wages or salary of all persons in the employ of such person at the time of the making of such assignment, or within one month before the making thereof, not exceeding three months' wages or salary, such wages or salary to be for arrears only and not for any unearned portion, and such persons shall be entitled to rank as ordinary or general creditors for the residue, if any, of their claims for arrears of such wages or salary. The provisions of this section shall apply to wages or salary, whether the employment in respect of which the same may be payable by the hour, day, week, month, year or other period of time.

#### Assignment of Wages.

Chapter 13.—This Act may be cited as The Assignments of Wages Act.

2. No assignment of, or order for, wages or salary to be earned in the future, given in consideration of a present loan, advance or payment of less than two hundred dollars, shall be valid against an employer of the person making said assignment or order until said assignment or order is accepted in writing by the employer and afterwards filed and recorded with the clerk of the County Court of the judicial division in which the party making the said assignment or order resides, if a resident of the province, or in which he is employed if he is not a resident of the province; but this section shall not apply where an assignment of, or order for, wages or salary is given to secure a past indebtedness for necessities, or to secure an account for necessities to be thereafter supplied, or partly for each of said purposes.

3. No assignment of, or order for, wages or salary to be earned in the future shall be valid when made by a married man living with his wife, unless the written consent of his wife to the making of such assignment or order is attached thereto or endorsed thereon.

4. No assignment of, or order for, wages or salary to be earned in the future, given in consideration of a present loan, advance or payment of money, shall be valid unless the amount of money lent or advanced thereon, or paid therefor, exceeds ninety-five per cent of the amount of wages or salary so assigned.

#### Inspection and Regulation of Bake Shops.

Chapter 15 with amendment.—1. This Act may be cited as The Bake Shop Act.

2. In this Act, unless the context otherwise requires—

(a) the expression "bake shop" means any building, premises, work-shop, structure, room or place wherein is carried on the manufacture or sale of confectionery, or of bread, biscuit, cakes or any other food product made from flour, or from meal, or from both, in whole or in part and the said bake shop shall include also any room or rooms used for the storing of flour or meal, and also any room or rooms used for the storing of confectionery, bread, cakes, biscuits and other food products.

(b) The expression "inspector" means any inspector of the Bureau of Labour appointed by the Lieutenant-Governor in Council, or any inspector appointed by a municipality for the enforcement of this Act. 1916, c. 5, s. 1.

(c) The expression "employer" means any person who in his own behalf, or as the manager, superintendent, overseer or agent for any person, firm, company or corporation, has charge of any bake shop, or employs any person or persons therein.

#### Regulations.

3. All bake shops to which this Act applies shall be constructed, as to lighting, heating, ventilating and draining in such a manner as not to be detrimental or injurious to the health of any person working therein, and shall also be kept at all times in a clean and sanitary condition, so as to secure the production and preservation of all the food products therein in a good and wholesome condition.

4. The sleeping place or places of the employees of every bake shop shall be entirely separate from the bake shop, and no person shall be allowed to sleep in such bake shop.

5. Every bake shop shall be provided with proper means and facilities of escape in case of fire, such means or facilities to be to the satisfaction of the inspector empowered by this Act to inspect such bake shops.

6. No employer shall knowingly require, permit or suffer to work in his bake shop any person who is affected with consumption of the lungs, or with scrofula, or with any venereal disease, or with any communicable skin disease; and every employer is hereby required to maintain himself and his employees in a clean and healthy condition while engaged in the manufacture, handling or sale of such food products.

7. No employer shall require, permit or suffer any employee in any bake shop to work more than twelve hours in any one day, or more than sixty hours in any one week, and no person under the age of fourteen years shall be employed in any such bake shop, except by permission of the inspector, given in writing, to the employer; and a copy of such permission shall be posted in a conspicuous place in the bake shop. 1916, c. 5, s. 2.

7a. For the purpose of enforcing the provisions of this Act, the inspector shall *mutatis mutandis* have and possess all the powers given an inspector by "The Manitoba Factories Act." 1916, c. 5, s. 3, part.

7b. In the event of any injury or accident happening in or about any bake shop the employer shall immediately give written notice thereof to the Bureau of Labour for the Province of Manitoba. Such notice shall give the name and address of the person injured and state in ordinary language the cause thereof and the date and time on which the same occurred. 1916, c. 5, s. 3, part.

#### Penalties.

8. Any employer who violates any provision of this Act, or who refuses the inspector admittance to his bake shop, or who neglects or refuses to comply with any lawful requirement of the inspector in connection with the enforcement of this Act, shall, for the first offence, be liable to a penalty of not less than ten dollars and not more than twenty dollars, and, for the second offence, to a penalty of not less than twenty-five dollars and not more than fifty dollars, and, in default of payment thereof, to imprisonment for a period not exceeding thirty days with hard labour, and, for the third or subsequent offence, such person shall be imprisoned for a period not exceeding six months to be kept at hard labour in the discretion of the convicting magistrate or justices.

9. All prosecutions under this Act shall be brought by the inspector, and shall be heard before any two of His Majesty's justices of the peace or a police magistrate.

#### Protection of Wages of Employees of Building Contractors.

Chapter 20.—1. This Act may be cited as The Builders' and Workmen's Act.

#### Interpretation.

2. In this Act, unless the context otherwise requires—

(a) the expressions "builder" and "contractor" respectively mean a person, company or corporation contracting with or employed directly by the proprietor for the doing of work or the placing or furnishing of machinery or materials on, in or about any building or erection, or in connection with any building or erection, or for the performance of any kind of work or labour whatever in which more than two persons are employed;

(b) the expression "sub-contractor" means a person, company or corporation contracting with or employed, either mediately or immediately, by such builder or contractor;

(c) the expression "proprietor" means and includes any person, company or corporation employing any builder or contractor for the doing of any such work or labour, or for the placing or furnishing of machinery or materials on, in or about any building or erection or in connection with any building or erection, and also any person, company or corporation having any estate or interest, real or equitable, in any land, building or erection upon or in respect of which any such work is done or materials or machinery are placed or furnished, and at whose request or upon whose credit or on whose behalf or with whose privity or consent or for whose benefit any such work is done or materials or machinery placed or furnished.

#### Pay Lists.

3. Every builder or contractor, whether chief or sub-contractor, who shall employ workmen by time or by piece work, to carry out his contract, shall keep a pay list drawn up in the form in schedule A to this Act, showing the names and wages, or price of the work, of such workmen, and every payment to them made shall be attested by the signature or cross of each such workman, in presence of a witness who shall also sign the same; and every proprietor shall require the production of such pay list before the payment of any amount claimed to be due on such work, except by the order of a court.

4. Every such proprietor for whom the work is being done shall, from time to time, see that the workmen who are unpaid, as may appear by said pay list, are paid the sums due or owing to them by the said builder or contractor, and until said workmen are paid in full, the said proprietor shall be liable to them directly for the amounts owing to them, as well as the said builder or contractor, and each such workman may claim, sue for and recover payment of the amount from the proprietor by a personal action in the same manner as he could have done from the contractor, and subject to any defence which the latter might have set up to said action or claim; provided, always, that the liability of the proprietor shall not exceed the amount of the original contract price.

(2) If, without payment, the said pay list for any reason be signed by a workman he shall be estopped from claiming the sum he has not been paid.

#### Actions by Workmen.

5. Several unpaid workmen may join in the same action, and in such an action where the money recovered, exclusive of costs, is less than the aggregate amount of the claims sued for, and for which judgment is recovered or an order made, the workmen joining in said action shall be entitled to the money so recovered *pari passu* according to their respective claims.

6. Previous to the trial or hearing of an action the proprietor shall, if the workman or workmen so desire, permit them and any witnesses they may desire on their behalf to enter into and examine any building, land or work, and any part thereof, on or about which any work has been done or materials placed or expended by the builder or contractor or by said workman or workmen, and to make all measurements thereof they may desire; and if such access or entrance be refused by the proprietor or anyone on his behalf or not given when applied for at a reasonable time, such fact when proved shall be conclusive evidence against the proprietor of the proper performance and amount of work and expenditure of materials to satisfy the claims of such workman or workmen, and to establish that a sum sufficient to satisfy their claims is owing by the proprietor to the builder or contractor and judgment shall be given accordingly.

7. If work be performed and materials expended, or either, on or about any building, land or work, under a special or entire contract between a builder or contractor and a proprietor, and the said contract shall not have been entirely performed or completed, but only in part, and an action or suit be brought or instituted against the proprietor by a workman or workmen, the latter shall be entitled to have the work done and materials expended, estimated and allowed as against the proprietor, as upon a *quantum meruit* to be estimated with reference to the contract price, and the proprietor shall be liable to such workman or workmen for the amount so allowed, or sufficient thereof to satisfy his or their claim or claims when proved in such action.

#### Penalty For Not Keeping Pay List.

8. Any such builder or contractor who shall wilfully neglect to keep such pay list, or who shall wilfully omit therefrom the name of any such workman, or who shall in said pay list wilfully make or allow to be made any misstatement as to the amount due or owing to any workman, or who shall wilfully neglect to furnish such pay list to the proprietor when requested by him, shall be liable to a penalty of not less than twenty dollars and not more than two hundred dollars, which penalty shall belong to any person who shall prosecute for the same before any justice of the peace; and, in default of payment of any such penalty, the same may be levied, with costs, by



distress upon the goods and chattels of the person against whom any such order or conviction may be made, wheresoever the same may be found within the province of Manitoba; and, in default of payment of any such penalty or of sufficient distress to satisfy the amount of any such order and conviction, together with the costs, such builder or contractor shall be liable to be imprisoned for any term not exceeding thirty days.

#### Sub-Contracts.

9. If any contract or part thereof be sub-let, notice thereof shall be given to the proprietor (if any provision in the original contract permits a sub-letting); and from and after such notice, the liability of the proprietor to the workmen under such sub-contract shall be the same as to the workmen under a contractor, and the sub-contractor shall be liable to all the duties and penalties imposed by this Act on a builder or contractor.

#### Registration of Building Contracts.

10. Wherever any builder or contractor, whether principal or sub-contractor, has entered into any contract in writing with a proprietor or owner of any land or building, the said builder or contractor may cause to be registered in the registry office of the registration district or land titles district where the land is situate, upon which such contract is to be executed, or in the proper land titles office if the land is or has been brought under "The Real Property Act," a copy of such contract, duly verified by affidavit; and from and after the registration of such contract, such builder or contractor shall have a lien upon the land upon which such contract is being executed for the amount of such contract price, or any unpaid portion thereof, and priority over any subsequent transferee or encumbrancee.

#### Appeals.

11. There shall be no appeal from any judgment, order or decision, given or rendered in any action or proceeding provided for in this Act, unless the amount of such judgment or order exceeds the sum of two hundred dollars, or unless the same is rendered under section 8 of this Act.

#### Assignments.

12. If an assignment be made by the contractor to a third party of the price of the work, the claim of a workman shall, with respect to such third party, have the same effect that it would have had with respect to the contractor if no such assignment had been made.

#### Miscellaneous.

13. The payment by the proprietor to any workman under an order or judgment of any court shall have the like effect as the payment to the contractor himself on account of the contract of work.

14. The form in schedule B to this Act shall be the form to be used under "The Real Property Act" for registering the contract, and the form in schedule C to this Act shall be the form for release under said Act.

(Schedules omitted.)

#### Liability of Employers for Maintenance of Employees in Hospitals

Chapter 28 with amendments.—24. A municipality may, after the payment by it to a hospital of any account with respect to the treatment of a public ward patient, proceed in a summary manner to collect the amount so paid, and in all such cases the proceedings shall be as follows: A notice, signed by the clerk of the municipality on its behalf shall be served upon the person for whom or on whose behalf the municipality has made such payment, requiring such person to pay the amount of the same to the municipality (stating the amount) within thirty days from the service of such notice. If the amount be not paid within such time, any justice of the peace, on complaint being made before him on oath by the clerk of the municipality that such person has neglected to pay the amount (stating the amount) after due notice as aforesaid, shall summon such person to appear before him to answer the complaint, and shall thereupon hear and determine the complaint, and upon conviction may order the person complained against to pay to the municipality the amount of said claim together with costs of prosecution forthwith, or at such time or times and in such amounts as he shall determine, and in default of payment shall order the collection of the same by distress and sale of the goods and chattels of the person convicted. A copy of the said order may be served upon the employer of the person convicted, and when so served shall have the effect of attaching all moneys that may be due and owing, or accruing due and owing, by the employer to the person convicted, for salary, wages or otherwise, to the same extent as a garnishee order under "The County Courts Act," and such moneys shall be paid over by the employer to the clerk of the municipality in or towards satisfaction of the claim of the municipality upon the order of such justice, and when so paid shall, to the extent of

the amount paid, discharge the employer from any further liability in the premises or to the person on whose behalf the said amount shall have been paid. The provisions of this clause shall not apply to female employees.

27. In the case of a patient, treated and cared for by any hospital, who is not, in the judgment of the Municipal Commissioner, a resident of any municipality within the meaning of this Act, the amount of the hospital for such treatment and care, or so much thereof as has not been collected by the hospital, may be paid by the Provincial Treasurer, on the certificate of the Municipal Commissioner, and the Municipal Commissioner shall make a levy each year, for all such amounts so paid prior to such levy, upon all the municipalities in the judicial district in which such hospital is situated, to recoup such payments, and such levy shall be made at the same time and in the same manner and shall have the same effect, and shall be on the same basis of equalized assessments, as other levies made under "The Municipal Commissioner's Act."

28. If any payment by the Municipal Commissioner, pursuant to the provisions of the preceding section, or by any municipality under any other of the provisions of this Act, is in respect of any patient who, immediately prior to his admission to a hospital, was an employee of any person or persons, firm, corporation, railway or other company whose practice or custom is to charge or deduct from the salary or wages of their employees a fee for medical attendance with respect to such employees in the event of their illness or physical disability, and such patient, at the time of his admission to such hospital, came within the class of employees above set forth, the amount so paid shall on demand be immediately repaid by such employer or employers to the Municipal Commissioner or to the municipality having paid the same in the first instance, and, if not so repaid, the Municipal Commissioner or municipality, as the case may be, may sue for and recover the same from such employer or employers as a liquidated claim or demand in any court of competent jurisdiction, or may summarily distrain for the same in the manner rent is distrained for under "The Distress Act."

28a. In addition to all other remedies provided by this Act or otherwise, it is declared that if a person, while in the employ of another person, or of a company or corporation, becomes ill, or sustains injury, and such illness or injury is of such a character that renders the employee incapable of continuing his said employment, and there is at the time due and owing, or accruing due and owing, by the employer to the employee any sum or sums of money for salary, wages or otherwise, it shall be the duty of the employer, without any further or other authority than is herein contained, to retain in his or their hands all such moneys aforesaid for a period of at least fifteen days; and it shall be the further duty of the employer, if it shall happen that the employee, as the result of such illness or injury, is admitted to a hospital for care or treatment, within a period of fifteen days after leaving his employment, as hereinbefore mentioned, forthwith on demand in writing by the hospital to which said employee has been admitted or by the clerk of the municipality from which the patient shall have come (which demand shall contain the name and, if possible, the address of the employee at the time of his leaving the service of the employer, and also the date of his admission to the hospital) to pay over, without deduction or abatement, all such moneys so retained, or so required to be retained as aforesaid, to the hospital or municipality for application to and towards the cost of the hospital services rendered, or to be rendered, to the said employee; and if the said moneys shall not be so paid the municipality or the hospital may sue for and recover the same from the employer as a liquidated claim or demand in any court of competent jurisdiction or may summarily distrain therefor and levy the same in the same manner as rent is distrained for and levied by a landlord. 1913-14, c. 18, s. 5, part. 1916, c. 17.

28b. It is further provided that if any employee, whilst in the service of any of the class of persons or corporations coming within and required to give compensation to employees under the provisions of "The Workmen's Compensation Act," sustains injuries, and such employee is admitted to a hospital, and while therein dies as the result of such injuries, the employer shall be liable to pay, and shall forthwith pay, on demand of the hospital, to the said hospital, the full amount of such sum as may be then due and owing the said hospital with respect to the care and treatment therein of such employee, including funeral expenses, not, however, in any one case to exceed the sum of two hundred dollars, and if not so paid the said amount so due and owing, as aforesaid, shall be recoverable in the same manner as is set forth in the last preceding section. 1913-14, c. 18, s. 5, part.

28c. Any employer paying any moneys to a hospital under the provisions of sections 28a and 28b of this Act shall have the right to set off the amount of such payment against any salary or wages owing or accruing to the employee, or his representative or dependents, and against any moneys to which the employee, or his said representatives or dependents, may become entitled to receive from or be paid by the employer under "The Workmen's Compensation Act" or otherwise. 1913-14, c. 18, s. 5, part.

**Employment of Children—Street Trades—Night Work—Injurious Occupations.**

Chapter 30.—28. It shall be unlawful for any child, over twelve and under sixteen years of age, to hawk or sell newspapers or other articles in the streets or public places of any incorporated city, town or village during the hours in which the public schools are in session without having first procured a license to do so from the superintendent of neglected children, pursuant to the provisions hereinafter contained, or without wearing in a conspicuous place on his clothing a numbered badge procured from said superintendent with such license.

(2) The superintendent, before issuing any such license, shall be furnished with and shall put on record full information as to the child's proper age, the names and addresses of the parents, the occupation of the father, the school and church such child attends, if any, and the name of the minister or clergyman of such church, and as to the reasons for the necessity for the child to be so employed during school hours, together with evidence satisfactory to him of such necessity, of the age of the child, and that he is of normal development physically, and able to undertake the work to be done under such license.

(3) The superintendent shall furnish to each such child along with such license a numbered badge, to be worn as aforesaid by such child whenever he is engaged in such selling or hawking during school hours, such badge to have the words "licensed news-boy" on it, together with the proper number.

(4) No fee or charge shall be payable by any applicant for such license or badge, nor shall any such license or badge be issued to a girl.

31. Any officer, constable or policeman may apprehend, without warrant, and bring before a judge, as neglected, any child apparently under the age of sixteen years, who,

(i) habitually hawks or sells articles in the streets or public places during school hours; or

(j) being under the age of twelve years, is found engaged in hawking or selling newspapers or other articles or distributing advertising matter in any street or public place at any time during the day or night; or

(k) being between the ages of twelve and sixteen years, is found hawking or selling newspapers or other articles in any street or public place during school hours, without having procured the necessary license and wearing the numbered badge referred to in section 28; or

(l) is found hawking or selling newspapers or other articles in any street or public place after nine o'clock at night.

40. It shall be unlawful to employ habitually any child under the age of twelve years between the hours of nine o'clock in the evening and six o'clock in the morning, and it shall also be unlawful to employ any child under the age of sixteen years in any occupation likely to be injurious to his life, limbs, health, education or morals, and any person guilty of a contravention of this section shall be liable, on summary conviction before a justice of the peace, to a fine not exceeding fifty dollars and, in default of payment, to imprisonment with hard labour for any term not exceeding one month.

**Liability of Directors of Companies for Employees' Wages.**

Chapter 35.—35. The directors of the company shall be jointly and severally liable to the labourers, servants and apprentices thereof, excluding the officers of the company, for all debts not exceeding one year's wages due for services performed for the company whilst they are such directors respectively, but no director shall be liable in an action therefor, unless the company has been sued therefor within one year after the debt became due, nor yet unless such director is sued therefor within one year from the time when he ceased to be such director, nor yet before an execution against the company has been returned unsatisfied in whole or in part, and the amount due on such execution shall be the amount recoverable with costs against the directors.

**Co-operative Associations.**

[Chapter 41, The Co-operative Associations Act, is replaced by a new act with the same title, chapter 23, 1916. Section 4 of the new Act provides for the incorporation of an association as follows:—]

4. Any seven or more persons who desire to associate themselves together as an incorporated association under this Act, for the purpose of carrying on any labour, or for fulfilling the requirements of any contract or undertaking by or on behalf of the labourers, or for the purpose of conducting and carrying on any co-operative business, whether wholesale, retail, manufacturing, importing, exporting, commission, warehousing or otherwise, may, in the presence of a witness, sign in duplicate and cause to be filed in the office of the registrar a memorandum of association in writing

(to which shall be attached an affidavit verifying the signatures), in the form set forth in schedule A of this Act, or to the like effect, together with a copy of the rules or by-laws agreed upon for the regulation, government and management of the association, signed by such persons respectively. 1916, c. 23, s. 4.

### **Earnings of Minors—Suits for Wages.**

Chapter 44.—62. A minor may sue in the County Court for any sum due to him within the jurisdiction of the court for wages, in the same manner as if he were of full age; but the judge, on the application of the father of such minor, or of the mother if the father be dead, and upon being shown that said minor had been residing with said parent and that the parent had a legal or equitable claim to the earnings of the minor, may order that such wages, when recovered, shall be paid to the parent in the whole or in part as may seem just and proper, the portion not ordered to be paid to the parent to be paid to the minor.

### **Protection of Employees as Voters—Time to Vote.**

Chapter 59 with amendment.—247. Any person entitled to vote at an election held under the provisions of this Act shall, on the day of such election, be entitled to absent himself, for the purpose of voting, from any service or employment in which he is then engaged or employed between the hours of twelve o'clock noon and two o'clock in the afternoon, and such voter shall not, because of so absentsing himself, be liable to any penalty, nor shall any deduction be made on account of such absence from his usual salary or wages.

290. The following persons shall be deemed to be guilty of the offence of "undue influence," and shall be liable to a penalty not exceeding three hundred dollars and not less than one hundred, and, in default of payment, to imprisonment for a term not less than one month and not exceeding six months or to imprisonment for such time without the option of a fine,—

(a) every person who, directly by himself or by any other person on his behalf, makes use of, or threatens to make use of, any force, violence or restraint, or inflicts, or threatens to inflict, by himself or by or through any other person, any injury, damage, harm or loss of employment, or in any manner practises intimidation, upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting, at any election;

(b) every person who, by abduction, duress or any fraudulent device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of any elector, or thereby compels, induces or prevails upon any elector either to vote or to refrain from voting at any election. 1916, c. 37, s. 10.

### **Liability of Employers for Injuries to Workmen.**

[Chapter 61, The Employers' Liability Act, is replaced by 1916, chapter 125, The Workmen's Compensation Act.]

### **Wages as Preferred Claims—In Executions.**

Chapter 66.—9. All persons in the employment of a judgment debtor or defendant, at the time of a seizure under any writ of execution or attachment against the goods and chattels, of lands and tenements, of the said judgment debtor or defendant, or within one month before such time, may file in the hands of the sheriff or bailiff (as the case may be) their claims for wages or salary, attested upon oath in the form in schedule A to this Act or in any other form to the like effect, before any person authorized by "The Manitoba Evidence Act" to receive affidavits for use in Manitoba; and such person or persons so claiming shall then be entitled to be paid out of the money levied from the property of any such debtor the wages or salary due to him or them by the said judgment debtor or defendant, not exceeding three months' wages or salary, in priority to the claims of the other creditors of the execution debtor or defendant, such wages or salary to be for arrears only and not for any unearned portion.

10. The provisions of the last preceding section shall apply to wages or salary, whether the employment in respect of which the same may be payable be by the hour or other period of time.

### Regulation of Storage, Sale and Transportation of Explosives.

Chapter 68.—1. This Act may be cited as The Manitoba Explosives Act.

2. The Lieutenant-Governor in Council shall from time to time make all necessary regulations, consistent with the provisions of this Act, for the receipt, conveyance, storage and delivery of gunpowder, nitro-glycerine or any other explosive substance used in blasting, in the cities and towns of the province and within two miles of the limits thereof.

3. No gunpowder, nitro-glycerine or other explosive substance used in blasting shall be stored, kept, conveyed, received or delivered within two miles of any such city or town, nor within half a mile from any main road or dwelling house, except in accordance with the regulations made, or to be made, by virtue of the last preceding section.

4. Any person who shall sell, or keep for sale, any gunpowder, nitro-glycerine or other explosive substance used for blasting, without having a license therefor, obtained from such officer as the said regulations designate for that purpose, shall be liable to a penalty of fifty dollars. Such license shall last for one year only, and a sum of not less than two dollars shall be paid therefor.

#### Powder Magazines.

5. Every building used for the storage or keeping of any quantity of gunpowder, nitro-glycerine or other explosive substance used for blasting, exceeding one hundred pounds in weight, shall be deemed a powder magazine within the meaning of this Act.

6. Any person who shall keep or use any powder magazine for the storage of gunpowder, nitro-glycerine or other explosive substance used for blasting, without having a license therefor, obtained from such officer as the said regulations designate for that purpose, shall be liable to a penalty of five hundred dollars. Such license shall last for one year only, and a sum of not less than twenty-five dollars shall be paid therefor to such officer.

7. No powder magazine shall be kept within the limits of any incorporated city or town in the Province or within two miles of such limits.

8. Every powder magazine shall be constructed of such material or materials, and in such a manner and at such location, as shall be determined by regulations relating thereto, to be made and enacted by the Lieutenant-Governor in Council; and, before any such powder magazine shall be erected, it shall be necessary for the owner or owners of the proposed structure to first receive the approval of the plans and specifications therefor of the Lieutenant-Governor in Council, to be signified by the signature of the Provincial Secretary on such plans and specifications.

9. No license shall be granted for the storage of gunpowder, nitro-glycerine or other explosive substance used for blasting, unless the officer granting the same shall know that the magazine in which the same is to be kept is of the description required by the last preceding section.

10. Every proprietor or lessee of any powder magazine shall be personally liable for any penalties imposed for the contravention of any regulation made in virtue of this Act, in respect of the conveyance of powder, nitro-glycerine or other explosive substance used for blasting, to or from such magazine.

11. It shall be lawful for the council of any municipality within whose territory any powder magazine or other building for the storage of explosives is now or shall hereafter be erected, which shall in its opinion become a source of danger to life on account of the proximity of dwellings or public roads, to pass a by-law prohibiting the further use of such powder magazine or other building for the storage of explosives; provided that no such by-law shall have any effect unless and until the council shall have provided for and paid to the owners or occupiers of any such building full compensation for all damages suffered or to be suffered by such owners or occupiers in consequence of the passage and enforcement of such by-law. If the amount of such damages cannot be settled by agreement between the parties, it shall be ascertained by arbitration under the expropriation clauses of "The Municipal Act," but the council shall not be bound to expropriate more than one acre of the land owned by the owner of any such building and used in connection therewith in addition to the building itself.

12. No person shall at any one time keep for sale or otherwise, in any building other than a powder magazine, a larger quantity of gunpowder, nitro-glycerine or other explosive substance used for blasting than one hundred pounds in weight; and every person keeping the same, or any or either of them, for sale shall continually keep designated in a conspicuous manner the part or parts of the building in which the same is or are placed, and shall keep placed over the entrance of such building or place a sign bearing conspicuously the words "Licensed to sell gunpowder, etc.;" and, for every day during which any person shall fail to comply with any requirement of this section, he shall incur and pay a penalty of fifty dollars.

### Penalties.

13. The regulations to be made in virtue of this Act may impose penalties for all infractions thereof, or for any infraction of this Act.

14. The penalties imposed by this Act or by such regulations may be recovered in a summary manner before any justice of the peace having jurisdiction where the offence was committed, who may order any person convicted before him of any such infraction to pay such penalty or penalties as may be prescribed, with costs, forthwith, and, in default of payment of such penalty or penalties with costs, to be imprisoned for a term not exceeding two months, unless the said penalty or penalties and costs, including the costs of conveyance to gaol be sooner paid.

### Saving Clause.

15. This Act shall not apply to or affect any magazines belonging to His Majesty, or to the conveyance of gunpowder or other explosive substances or stores to and from His Majesty's magazines by His Majesty's military or other forces.

### Inspection and Regulation of Factories.

Chapter 70 with amendments.—1. This Act may be cited as The Manitoba Factories Act.

### Interpretation.

2. In this Act, unless the context otherwise requires, the expression "factory" means—

(a) any building, workshop, structure or premises of the description mentioned in schedule A to this Act, in which three or more persons are employed, together with such other building, structure or premises, as the Lieutenant-Governor in Council from time to time adds to the said schedule; and any laundry operated or owned by Chinese. 1916, c. 41, s. 1.

(b) any premises, building, workshop, structure, room or place wherein, or within the precincts of which, steam, water or other mechanical power is used to move or work any machinery employed in preparing, manufacturing or finishing, or in any process incidental to the preparing, manufacturing or finishing of, any article, substance, material, fabric or compound, or is used to aid the manufacturing process carried on there;

(c) any premises, building, workshop, structure, room or place wherein the employer of the persons working there has the right of access and control, and in which, or within the precincts of which, any manual labour is exercised by way of trade or for the purposes of gain in or incidental to the following purposes, or any of them, that is to say, the making of any article or part of any article, the altering, repairing, ornamenting or finishing of any article, or the adapting for sale of any article:

Provided that, where children, young girls or women are employed at home, that is to say, in a private house, place or room used as a dwelling, wherein neither steam, water nor other mechanical power is used in aid of the manufacturing process carried on there, and wherein the only persons employed are members of the same family dwelling there, the provisions of this Act shall not apply, except in the case of laundries operated or owned by Chinese. 1916, c. 41, s. 2.

3. The Lieutenant-Governor in Council may from time to time, by proclamation published in The Manitoba Gazette, add to or remove from said schedule such description of premises as he deems necessary or proper.

4. A part of a factory may, for the purposes of this Act, be taken to be a separate factory; and a place used as a dwelling shall not be deemed to form part of the factory for the purposes of this Act.

(2) Where a place, situate within the close or precincts forming a factory, is solely used for some purpose other than the manufacturing process or handicraft carried on in the factory, such place shall not be deemed to form part of that factory for the purposes of this Act, but shall, if otherwise it would be a factory, be deemed to be a separate factory and be regulated accordingly.

(3) No premises or place shall be excluded from the definition of a factory by reason only that such premises or place are or is in the open air.

(4) Where an owner, occupier or tenant of any premises, building, workshop, structure, room or place, who has the right of access thereto and control thereof, lets, or hires out, or contracts for, work or labour to be done therein by any other person, and such other person engages or employs therein any workman, child, young girl or woman in or for the carrying out or performing of such work or labour, or any part thereof, every such workman, child, young girl or woman shall, for all the purposes of this Act, be considered and taken as being in the service and employment of said owner, tenant or occupier; and in computing the number of persons employed in any place,



in order to ascertain if such place comes within the definition of a factory according to the meaning and intent of this Act, every such workman, child, young girl or woman shall be taken into account.

5. In this Act, unless the context otherwise requires,—

(a) the expression "inspector" means any inspector of the Bureau of Labour appointed by order of the Lieutenant-Governor in Council. 1916, c. 41, s. 3.

(b) the expression "employer" means any person who, in his own behalf or as the manager, superintendent, overseer or agent for any person, firm, company or corporation, has charge of any factory and employs persons therein;

(c) the expression "week" means the period between midnight on Sunday night and midnight on the succeeding Saturday night;

(d) the expression "child" means a male person under the age of fourteen years and a female person under the age of fifteen years;

(e) the expression "young girl" means a girl of the age of fifteen years or upwards and under the age of eighteen years;

(f) the expression "woman" means a woman of eighteen years of age or upwards;

(g) the expression "parent" means and includes a parent or guardian of or a person having the legal custody of or control over, or having direct benefit from the wages of, a child or young girl;

(h) the expression "court of summary jurisdiction" means the justices of the peace or police magistrate, as the case may be, to whom jurisdiction is given by this Act to hear and determine prosecutions under this Act;

(i) the expression "mill-gearing" comprehends every shaft, whether upright, oblique or horizontal, and every wheel, drum or pulley by which the motion of the first moving power is communicated to any machine appertaining to a manufacturing process.

(j) the expression "boy" means a boy of the age of fourteen years or upwards and under the age of seventeen years. 1915, c. 24, s. 2.

#### Employees.

6. No child shall be employed in any factory.

(2) A factory in which the provisions of this section are not complied with by the employer shall be deemed to be kept unlawfully so that the health of any child therein employed is likely to be permanently injured, and such employer shall, because thereof, be deemed to be guilty of a contravention of the provisions of this Act.

7. The Lieutenant-Governor may from time to time by Order in Council, notice of which shall be published in "The Manitoba Gazette," prohibit the employment of girls under the age of eighteen years and of boys under the age of sixteen years in factories, the work in which is deemed by the Lieutenant-Governor in Council to be dangerous or unwholesome.

8. If a person is found in a factory except at meal times or while all the machinery of the factory is stopped or for the sole purpose of bringing food to the persons employed in the factory, such person shall, until the contrary is proved, be deemed for the purpose of this Act to have been then employed in the factory.

(2) Yards, playgrounds and places open to the public view, waiting rooms and other rooms belonging to the factory in which no machinery is used or manufacturing process carried on, shall not be taken to be any part of the factory within the meaning of this section.

9. A child, young girl or woman who works in a factory, whether for wages or not, either in the manufacturing process or handicraft, or in cleaning any part of the factory used for any manufacturing process or handicraft, or in cleaning or oiling any part of the machinery, or in any other kind of work whatsoever incidental to or connected with the manufacturing process or handicraft, or connected with the article made, or otherwise the subject of the manufacturing process or handicraft therein, shall, save as otherwise provided by this Act, be deemed to be employed in such factory within the meaning of this Act; and for the purpose of this Act an apprentice shall be deemed to work for hire.

10. When an employer has served on an inspector notice of his intention to conduct his factory on the system of not employing children or young girls therein, the factory shall be deemed for all purposes of this Act to be conducted on the said system until the employer changes it, and no change shall be made until the employer has served on the inspector notice of his intention to change the system, and until the change a child, young girl or young girls employed in a factory shall be deemed to be employed contrary to the provisions of this Act; a change in the said system shall not be made oftener than once in every three months, unless for special cause allowed in writing by the inspector.

11. Nothing in this Act shall extend to any person, being a mechanic, artisan or labourer, who shall be temporarily working only in repairing either the machinery in or part of a factory.



## Regulations respecting Employees.

12 It shall not be lawful to employ in a factory any young girl or woman, so that the health of such young girl or woman is likely to be permanently injured, and who ever so employs any young girl or woman shall, upon summary conviction thereof, be liable to imprisonment in the common gaol of the judicial district wherein the offence was committed for a period not exceeding six months, or to a fine of not more than one hundred dollars with costs of prosecution and, in default of immediate payment of such fine and costs, then to imprisonment as aforesaid.

13 To employ in a factory any young girl or woman shall be deemed to be unlawful and to be an employing so that the health of such young girl or woman is likely to be permanently injured, if in that factory there is any contravention of the following provisions of this section, that is to say, —

(a) it shall not be lawful for a young girl, boy or woman to be employed for more than nine hours in one day, nor more than fifty-four hours in any one week, unless a different apportionment of hours of labour per day has been made for the sole purpose of giving a shorter day's work on Saturday. 1915, c. 24, s. 4.

(b) in every factory the employer shall allow every young girl and woman therein employed not less than one hour at noon of each day for meals, but such hour shall not be counted as part of the time herein limited with respect to the employment of young girls and women;

(c) if the inspector so directs in writing, the employer shall not allow any young girl or woman to take meals in any room wherein any manufacturing process is then being carried on; if the inspector so directs in writing, the employer shall, at his own expense, provide a suitable room or place in the factory, or in connection therewith, for the purpose of a dining and eating room for the persons employed in the factory.

14 Subject to any regulations which may be made in that behalf by the Lieutenant-Governor in Council, it shall be lawful for the inspector, —

(a) where any accident, which prevents the working of any factory, happens to the motive power of any machinery, or

(b) where, from any other occurrence beyond the control of the employer, the machinery, or any part of the machinery, of any factory cannot be regularly worked, or

(c) where the custom or exigencies of certain trades require that the young girls or women working in a factory, or in certain processes in a factory, shall be employed for a longer period than as herein above provided —

on due proof to his satisfaction of such accident, occurrence, custom, or exigency of trade, to give permission for such exemption from the observance of the foregoing provisions of the Act as will, in his judgment, fairly and equitably, to the proprietors of, and to the women and young girls in, such factory, make up for any loss of labour from such accident or occurrence, or meet the requirements of such custom or exigency of trade.

15 If the inspector permit such exemptions as in the last preceding section mentioned

(a) no woman or young girl shall be employed before the hour of seven o'clock in the morning nor after the hour of ten o'clock in the evening;

(b) the hours of labour for women and young girls shall not be more than twelve in any one day, nor more than sixty in any one week. 1916, c. 41, s. 5.

(c) such exemptions shall not comprise more than thirty-six days, in the whole, in any twelve months; and in reckoning such period of thirty-six days every day on which any young girl or woman has been employed overtime shall be taken into account.

(d) during the continuance of such exemption, there shall, in addition to the hour for the noonday meal provided for by section 13, be allowed to every woman and young girl so employed in the factory on any day to an hour later than seven of the clock in the afternoon not less than forty-five minutes for another or evening meal, between five and eight of the clock in the afternoon; and

(e) in every factory to, or with respect to, which any such permission for exemption is so given there shall, in compliance with the provisions of section 17, be affixed a notice specifying the extent and particulars of such exemption.

16 When under the exemptions allowed herein, any young girl or woman is employed in any factory on any day for a longer period than is allowed herein, the duration of such employment shall be daily recorded by the employer in a register, which shall be in such form as may be required by any regulations made in that behalf by the Lieutenant-Governor in Council, or, until such form is provided, in the form given by this Act.

17 Notice of the hours, between which young girls or women are to be employed, shall be made in such forms as may be required by the regulations made in that behalf by the Lieutenant-Governor in Council, or, until such form is provided, in the form

given by this Act, and shall be signed by the inspector and by the employer, and shall be hung up, during the period affected by such notice, in such conspicuous place or places in the factory as the inspector requires.

18. A young girl shall not be allowed to clean any part of the machinery in a factory while the same is in motion by the aid of steam, water or other mechanical power.

19. A young girl or woman shall not be allowed to clean such part of the machinery in a factory as is mill-gearing, while the same is in motion for the purpose of propelling any part of the manufacturing machinery.

20. A young girl shall not be allowed to work between the fixed and traversing part of any self-acting machine, while the machine is in motion by the action of steam, water or other machinery power.

21. A young girl or woman, allowed by any employer to clean or work in contravention of any of the three last preceding sections, shall be deemed to be employed by him contrary to the provisions of this Act and such employer shall be deemed to have contravened said provisions.

#### Provisions for Ensuring Health and Safety.

22. Every factory shall be kept in a cleanly state and free from effluvia arising from any drain, privy or other nuisance.

23. A factory shall not be so overcrowded while work is carried on therein as to be injurious to the health of the persons employed therein, and a notice shall be posted in each room specifying the number of employees who shall be allowed to work in such room.

24. Every factory shall be ventilated in such a manner as to render harmless, so far as reasonably practicable, all the gases, vapours, dust or other impurities generated in the course of the manufacturing process or handicraft carried on therein that may be injurious to health.

25. In every factory there shall be kept provided a sufficient number and description of privies, earth or water closets, and urinals, for the employees of such factory; such closets and urinals shall at all times be kept clean and well ventilated, and separate sets thereof shall be provided for the use of the male and female employees, and shall have respectively separate approaches.

26. A factory in which there is a contravention of any of the four last preceding sections, or of the regulations made for the enforcement of any of the same, shall be deemed to be kept unlawfully and so that the health of any person employed therein is likely to be permanently injured and the employer shall because thereof, be deemed to be guilty of a contravention of the provisions of this Act.

27. In every factory where, contrary to the provisions of this Act, there is any omission, act, neglect or default in relation to any overcrowding, ventilation, drain, privy, earth-closet, ash-pit, water-closet, water supply, nuisance or other matter, whereby the health of persons employed in the factory may be affected, the employer shall within a reasonable time take such action thereon as the inspector, acting under the regulations, if any, made in respect to such subjects, notifies the employer to be proper and necessary.

28. In every factory where any process is carried on, by which dust is generated and inhaled by the workers to an injurious extent, if such inhalation can by mechanical means be prevented or partially prevented, the inspector may, subject to such regulations, if any, as may be made in that behalf, direct that such means shall be provided within a reasonable time by the employer, who in such cases shall be bound so to provide them.

29. A factory in which the provisions of either of the two last preceding sections are not complied with by the employer shall be deemed to be kept unlawfully and so that the health of any person therein employed is likely to be permanently injured, and such employer shall, because thereof, be deemed to be guilty of a contravention of the provisions of this Act.

30. Where two or more persons occupy or use the same room or premises for carrying on any work or business, within the meaning of this Act, and employ in the aggregate four persons or more, no one of such persons employing so many as four, each of the several employers shall be held responsible for providing proper and sufficient water-closets and other requirements set forth in the eight last preceding sections, which said sections shall apply to each of such employers, as if they were partners in all the work or business of the said room or premises.

31. The inspector may, for the purposes of the nine last preceding sections, take with him into any factory a physician, or a health officer or other officer of the local sanitary authority.

32. It shall not be lawful to keep a factory so that the safety of any person employed therein is endangered or so that the health of any person employed therein is likely to be permanently injured, and whoever so keeps a factory shall, upon conviction thereof, be liable to imprisonment within the common goal of the judicial district

within which the offence was committed for a period of not more than twelve months or to a fine of not more than five hundred dollars, with costs of prosecution, and, in default of immediate payment of such fine and costs, then to imprisonment as aforesaid.

33. In every factory—

(a) all dangerous parts of mill-gearing, machinery, shafting, vats, pans, cauldrons, reservoirs, wheel races, flumes, water channels, doors, openings in the floors or walls, bridges and all other dangerous structures or places, shall be, as far as practicable, securely guarded;

(b) no machine other than steam engines, shall be cleaned while in motion, if the inspector so directs by written notice;

(c) the opening of every hoist-way, hatch-way, elevator or well-hole shall be, at each floor, provided with and protected by good and sufficient trap-doors or self-closing hatches and safety catches, or by such other safeguards as the inspector directs; and such trap-doors shall be kept closed at all times, except when in actual use by persons authorized by the employer to use the same;

(d) all elevator cabs or cars, whether used for freight or passengers, shall be provided with some suitable mechanical device, to be approved by the inspector, whereby the cab or car will be securely held in the event of accident to the shipper, rope or hoisting machinery, or from any similar cause;

(e) any other particulars which any inspector from time to time considers dangerous, and in regard to which he gives notice to that effect to the employer, shall likewise, as far as practicable, be secured or securely guarded.

34. A factory in which there is a contravention of the last preceding section or of the regulations made for the enforcement of the same, shall be deemed to be kept unlawfully and so that the safety of any person employed therein is endangered.

35. In every factory—

(a) there shall be such means of extinguishing fires as the inspector, acting under the regulations made in that behalf, directs in writing;

(b) the main inside and outside doors shall open outwardly, and no door leading to or being the principal or main entrance to the factory, or to any tower, stairway or fire escape therein or belonging thereto, shall be bolted, barred or locked at any time during the ordinary and usual working hours in the factory.

36. In the case of factories over two stories in height there shall be provided in every room which is above the ground floor or in so many of the rooms above the ground floor as the inspector in writing certifies to be in his judgment sufficient, a wire or other rope for every window in the room, or for as many windows in the room as the inspector certifies in writing to be sufficient.

(2) Every such rope shall be not less than three-quarters of an inch in thickness, and of sufficient length to reach from the room in which it is kept to the ground below, and every such window of every room shall be provided with proper, convenient and secure fastenings and appurtenances to which one end of the rope may be safely secured or fastened.

(3) The said wire or other ropes shall be kept in a coil or other convenient position in the room.

37. Every factory three or more stories in height, in which persons are employed above the second story, unless supplied with a sufficient number of tower stairways with iron doors, shall be provided with a sufficient number of fire escapes; such fire escapes shall consist of an iron stairway with suitable railing, and shall be connected with the interior of the building by iron doors or windows, with iron shutters, and shall have suitable landings at every story above the first, including the attic if the attic is occupied as a workroom and such fire escapes shall be kept in good repair and free from obstruction or encumbrance of any kind; but any of the requirements of this section may be dispensed with in any factory if the inspector so directs.

38. A factory or workshop in which there is a contravention of any of the three last preceding sections shall be deemed to be kept unlawfully and so that the safety of any person employed therein is endangered.

39. If a fire or accident in any factory occasions any bodily injury to any person employed therein, whereby he or she is prevented from working for more than six days next after the fire or accident, a notice shall be sent to the inspector in writing by the employer forthwith after the expiration of the said six days, and if such notice is not so sent the employer shall be liable to a fine not exceeding thirty dollars.

40. If an explosion occurs in a factory, whether any person is injured thereby or not, the fact of such explosion having occurred shall be reported to the inspector in writing by the employer within twenty-four hours next after the explosion takes place. And if such notice is not so sent the employer shall be liable to a fine not exceeding thirty dollars.

41. Where, in a factory, any person is killed from any cause, or is injured from any cause in a manner likely to prove fatal, written notice of the accident shall be sent to the inspector within twenty-four hours after the occurrence thereof, and if such notice is not so sent the employer shall be liable to a fine not exceeding thirty dollars.

41a. Where in a factory an accident takes place, as result of which any person is injured and death follows within thirty days from the date of and as a result of the said accident, written notice of the death shall be sent to the inspector within twenty-four hours after the said death, and if such notice is not so sent, the employer shall be liable to a fine not exceeding thirty dollars. 1915, c 24, s. 5.

#### Powers of Lieutenant-Governor in Council.

42. The Lieutenant-Governor in Council may from time to time, for the purpose of carrying out this Act,—

(a) make such rules, regulations and orders for enforcing its provisions, and for the conduct and duties of the inspector as may be deemed necessary;

(b) appoint the inspector, who shall be paid such salary or compensation as from time to time may be appropriated for the purpose by the Legislature;

(c) designate and assign, in the order appointing any inspector, the locality in and for which he is to be the inspector under this Act.

43. The Lieutenant-Governor in Council may from time to time appoint a female inspector for the purpose of carrying out this Act, in addition to the other inspectors by law directed.

#### Powers and Duties of Inspectors.

44. The inspector shall, for the purpose of the execution of this Act, and for enforcing the regulations made under the authority thereof, have power to do all or any of the following things, namely,—

(a) to enter, inspect and examine at all reasonable times, by day or night, any factory and any part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe to be a factory.

(b) to require the production of any register, certificate, notice or document required by this Act to be kept, and to inspect, examine and copy the same;

(c) to take with him in either case a constable into a factory in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty;

(d) to make such examination and enquiry as may be necessary to ascertain whether the provisions of this Act are complied with, so far as respects the factory and the persons employed therein;

(e) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, every person whom he finds in a factory or whom he has reasonable cause to believe to be, or to have been within the two then last preceding months, employed in a factory, and to require such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so examined;

(f) for the purposes of any investigation, enquiry or examination made by him under the authority of this Act, to administer an oath to and to summon any person to give evidence;

(g) to exercise such other powers as may be necessary for carrying this Act into effect.

45. The employer and his agents and servants shall furnish the means required by the inspector as necessary for entry, inspection, examination, enquiry or the exercise of his powers under this Act in relation to such factory.

46. Every person who wilfully delays the inspector in the exercise of any power under either of the two last preceding sections, or who fails to comply with a requisition or summons of the inspector in pursuance of either of such sections, or to produce any certificate or document with which he is required by or in pursuance of this Act to produce, or who conceals or prevents, or attempts to conceal or prevent, a child, young girl or woman from appearing before or being examined by the inspector, shall be deemed to obstruct an inspector in the execution of his duties under this Act.

47. Where the inspector is obstructed in the execution of his duties under this Act, the person obstructing him shall be liable to a fine not exceeding thirty dollars; and where an inspector is so obstructed in a factory the employer shall be liable to a fine not exceeding thirty dollars or, where the offence is committed at night, one hundred dollars.

48. The inspector, before entering in pursuance of the powers conferred by this Act, without the consent of the occupier, any room or place actually used as a dwelling as well as for a factory, shall, on affidavit or statutory declaration of facts and reasons, obtain written authority to do so from the Lieutenant-Governor in Council, or such warrant as is hereinafter mentioned from a justice of the peace or police magistrate.

(2) The affidavit or statutory declaration above mentioned may be inspected or produced in evidence, in all respects the same as an information on oath before a justice.

(3) A justice of the peace or police magistrate, if satisfied by information on oath or statutory declaration that there is reasonable cause to suppose that any provision

of this Act is contravened in any such room or place as aforesaid, may, in his discretion, grant a warrant under his hand authorizing the inspector named therein, at any time within the period named therein, but not exceeding one month from the date thereof, to enter in pursuance of this Act the room or place named in the warrant and exercise therein the powers of inspection and examination conferred by this Act; and the fines and provisions of this Act, with respect to obstruction of the inspector, shall apply accordingly.

49. Every inspector under this Act shall be furnished with a form of certificate of his appointment, under the hand and seal of the Minister of Public Works, or other member of the Executive Council to whom the duty of the administration of this Act may from time to time be assigned, and on applying for admission to a factory, shall, if required, produce to the employer the said certificate. 1916, c. 41, s. 4.

50. Such annual or other report of the inspector as the Lieutenant-Governor from time to time directs shall be laid before the Legislative Assembly.

50a. The inspector during his tenure of office shall not be competent to give testimony in any civil cause, matter or proceeding with regard to anything which he has seen or done, or with regard to any information he has obtained, opinion he has formed or investigation he has made, in the discharge of his duties as inspector, and during said tenure of office he shall not be competent to give testimony in any civil cause, matter or proceeding as an expert witness with regard to any subject or matter whatsoever.

(a) Anyone employed in or connected with the office of the inspector shall, as regards giving testimony, be under the same disability and incompetency as the inspector. 1915, c. 24, s. 6.

#### Notices.

51. Immediately upon the appointment of the inspector due notice of the same shall be published in The Manitoba Gazette, and, within ninety days thereafter, every person occupying premises and carrying on business described in this Act as a factory shall serve on the inspector a written notice containing the name of the factory, the place where it is situated, the address to which he desires his letters to be addressed, the nature of the work, the nature and amount of the moving power therein, and the name of the firm under which the business of the factory is to be carried on, and in default shall be liable to a fine not exceeding thirty dollars.

52. Every person shall, within one month after he begins to occupy a factory, serve on the inspector a written notice containing the name of the factory, the place where it is situated, the address to which he desires his letters to be addressed, the nature of the work, the nature and the amount of the moving power therein, and the name of the firm under which the business of the factory is to be carried on, and in default shall be liable to a fine not exceeding thirty dollars.

52a. At least fifteen days before a factory shall be operated for the first time, the owner, proprietor or manager of same shall give notice to the inspector that he wishes the inspector to inspect same. No operations shall be commenced in such factory until the said owner, proprietor or manager has received from the inspector a certificate of inspection of the factory and a permit to operate the same. 1915, c. 24, s. 7.

53. There shall be affixed at the entrance of a factory, and in such other parts thereof as the inspector directs, and be constantly kept so affixed, in the form directed by the inspector and in such position as to be easily read by the persons employed in the factory,—

(a) such notices of the provisions of this Act and of any regulations made thereunder as the inspector deems necessary to enable persons employed in the factory to become acquainted with their rights, liabilities and duties under this Act;

(b) a notice of the name and address of the inspector, with a notice warning employees or others who may become aware of any contravention of this Act to communicate direct with the inspector in confidence, and the inspector receiving such information shall not divulge the name of the informant;

(c) a notice of the clock, if any, by which the period of employment and times for meals in the factory are regulated; and

(d) every other notice and document, if any, required by this Act, to be affixed in the factory.

(2) In the event of a contravention of any provision or requirement of this section the employer shall be liable to a fine not exceeding twenty dollars.

54. A notice of the name and address of the inspector shall, in compliance with such directions as the inspector may give under the provisions of the last preceding section, be affixed in every factory.

55. Any notice, order, requisition, summons, and document under this Act may be in writing or print, or partly in writing and partly in print.

56. Any notice, order, requisition, summons or document, required or authorized to be served or sent for the purposes of this Act, may be served and sent by delivering the same to or at the residence of the person on or to whom it is to be served or sent

or, where that person is an employer within the meaning of this Act, by delivering the same, or a true copy thereof, to his agent or to some person in the factory of which he is employer; it may also be served or sent by post by a prepaid letter and, if served or sent by post, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending it shall be sufficient to prove that it was properly addressed and put into the post; and where it is required to be served on or sent to an employer it shall be deemed to be properly addressed if addressed to him at the factory in respect of which he is employer, with the addition of the proper postal address, but without naming the person who is the employer.

#### Registers.

57. In every factory the employer shall keep, in the form and with the particulars prescribed by this Act or by any regulation made by the Lieutenant-Governor in Council in that behalf, a register of women and young girls employed in that factory and of their employment, and of other matter under this Act, and shall send to the inspector such extracts from any register kept in pursuance of this Act as the inspector from time to time requires for the execution of his duties under this Act, and in default thereof such employer shall be liable to a fine not exceeding thirty dollars.

(a) Provided, however, that the registration of women may be dispensed with where the inspector deems such registration not necessary. 1915, c. 24, s. 8.

58. Every employer carrying on business within the meaning of this Act, who shall sub-let any contract or give out any materials to be made, altered, repaired or finished, at any other place than at a factory registered under this Act, shall keep a register of all such work given out and the location of the premises where the work is to be performed. Such register shall be subject to the inspection of the inspector at all times; and he shall, as far as possible, see that such work is performed under proper sanitary conditions.

#### General Provisions.

59. Where, in a factory, the owner or hirer of a machine or implement moved by steam, water or other mechanical power, in or about or in connection with which machine or implement children, young girls or women are employed, is some person other than the employer as defined by this Act, and such children, young girls or women are in the employment and pay of the owner or hirer of such machine or implement, in any such case such owner or hirer shall, so far as respects any offence against this Act which may be committed in relation to such children, young girls or women, be deemed to be the employer.

60. The provisions of this Act which relate,—

(a) to the cleanliness, or to the freedom from effluvia, or to the overcrowding or ventilation of a factory, and

(b) to young girls and women being, during any part of the times allowed for meals in a factory, employed in the factory or being allowed to remain in any room, and

(c) to the affixing of any notice or abstract in a factory or specifying any matter in the notice so affixed, save and except where such notice is a notice of the name and address of the inspector, and

(d) to the sending of notices of accidents, shall not apply where persons are employed at home, that is to say, to a private house, room or place which, though used as a dwelling, might, by reason of the work carried on there, be a factory within the meaning of this Act, and in which neither steam, water nor other mechanical power is used, and in which the only persons employed are members of the same family dwelling there.

61. The provisions of this Act which relate—

(a) to young girls and women being, during any part of the times allowed for meals in a factory, employed in a factory or being allowed to remain in any room, and

(b) to the affixing of any notice or abstract in a factory or specifying any matter in the notice so affixed, save and except where such notice is a notice of the name and address of the inspector,

shall not apply to a factory which is conducted on the system of not employing young girls therein, and the occupier of which has served on the inspector notice of his intention to conduct his factory upon that system.

#### Penalties and Prosecutions.

62. Every person who wilfully makes a false entry in any register, notice, certificate or document required by this Act to be left, served or sent, or who wilfully makes or signs a false declaration under this Act, or who knowingly makes use of any false entry or declaration shall, upon conviction thereof, be liable to imprisonment in the common gaol of the judicial district wherein the offence was committed for a period not exceeding six months, or to a fine of not more than one hundred dollars, with costs of prosecution,



and, in default of immediate payment of such fine and costs, then to imprisonment as aforesaid.

63. The parent of any child or young girl employed in a factory in contravention of this Act shall, unless such employment is without the consent, connivance or wilful default of such parent, be guilty of an offence in contravention of this Act, and shall, for each offence, be liable to a fine of not more than fifty dollars, and, in default of immediate payment, to imprisonment for a period not exceeding three months.

64. If any of the provisions of this Act, or of any regulations, rules or orders made under the authority thereof by the Lieutenant-Governor in Council, or by any inspector, are contravened, and no other penalty is herein provided for such contravention, the employer guilty of such contravention shall be liable to a fine of not more than fifty dollars, and, in default of immediate payment, to imprisonment for a period not exceeding three months.

65. If a factory is not kept in conformity with this Act, the court of summary jurisdiction, in addition to or instead of inflicting a fine, penalty or other punishment upon the employer, may order certain means to be adopted by the employer, within the time named in the order, for the purpose of bringing his factory into conformity with this Act. The court may also, upon application, enlarge the time so named but if, after the expiration of the time as originally named or enlarged by subsequent order, the order is not complied with, the employer shall be liable to a fine not exceeding ten dollars for every day that such non-compliance continues.

66. Where the employer is charged with an offence against this Act, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court or tribunal at the time appointed for hearing the charge and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that he had used due diligence to enforce the execution of the Act, and that the said other person had committed the offence in question without his knowledge, consent or connivance, the said other person shall be summarily convicted of such offence, and the employer shall be exempt from any fine, penalty or punishment.

67. Where it is made to appear, to the satisfaction of the inspector at the time of discovering the offence, that the employer had used all due diligence to enforce the execution of this Act, and also by what person such offence was committed, and also that it was committed without the knowledge, consent or connivance of the employer and in contravention of his orders, then the inspector shall proceed in the first instance against the person whom he believes to have been the actual offender, without first proceeding against the employer.

68. Where an offence, for which an employer is liable under this Act to a fine, has in fact been committed by some agent, servant, working man or other person, such agent, servant, working man or other person shall be liable to the same fine, penalty or punishment for such offence as if he were the employer.

69. A person shall not be liable, in respect of a repetition of the same kind of an offence from day to day, to any larger fine, penalty or punishment than the highest fine, penalty or punishment fixed by this Act for the offence, except—

(a) where the repetition of the offence occurs after an information has been laid for the previous offence; or

(b) where the offence is one of employing a child, or two or more young girls or women, contrary to the provisions of this Act.

70. All prosecutions under this Act may be brought and heard before any two of His Majesty's justices of the peace or any police magistrate; and save where otherwise provided by this Act, the procedure shall be governed by "The Manitoba Summary Convictions Act."

71. The following provisions shall have effect with respect to summary proceedings for offences and fines under this Act:—

(a) the information shall be laid within two months or, where the offence is punishable at discretion by imprisonment, within three months after the offence has come to the knowledge of the inspector;

(b) the description of an offence in the words of this Act or in similar words shall be sufficient in law;

(c) any exception, exemption, proviso, excuse or qualification, whether it does or does not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information, and if so specified or negatived no proof in relation to the matter so specified or negatived shall be required on the part of the informant;

(d) it shall be sufficient to allege that a factory is a factory within the meaning of this Act;

(e) it shall be sufficient to state the name of the ostensible employer or the title of the firm by which the employer employing persons in a factory is usually known;



(f) a conviction or order made in any matter arising under this Act, either originally or on appeal, shall not be quashed for want of form; and a conviction or order made under this Act by a court of summary jurisdiction, against which a person is authorized to appeal, shall not be removed by *certiorari* or otherwise, either at the instance of the Crown or of any private person, into the Court of King's Bench, except for the purpose of the hearing and determination of a special case.

72. Where an alleged child or young girl is, in the opinion of the court, apparently of the age alleged by the informant, it shall lie on the defendant to prove that the child or young girl is not of that age.

73. On the trial of any complaint, proceeding, matter or question under this Act, the person opposing or defending, or who is charged with any offence against or under any of the provisions of this Act, shall be competent and compellable to give evidence in or with respect to such complaint, proceeding, matter or question.

74. All fines or penalties in money, imposed or recovered under or in pursuance of this Act, shall be paid by the convicting justices or police magistrate, as the case may be, to the inspector, who shall forthwith pay the same over to the Provincial Treasurer for the use of the Province.

#### Forms.

75. Unless and until otherwise ordered or directed by any regulation in that behalf made by the Lieutenant-Governor in Council.—

(a) the register mentioned in and required by section 57 shall, so far as the same relates to young girls, be according to form No. 1 in schedule B to this Act, and, so far as the same relates to women, according to form No. 2 in the said schedule;

(b) the register mentioned in and required by section 16 shall be according to form No. 3 in the said schedule;

(c) on the first page of any register kept by an employer, pursuant to this Act or to any rule, order or regulation made in that behalf by the Lieutenant-Governor in Council, shall be printed the form No. 4 in the said schedule, or one to the like effect, and the same shall be properly filed and signed by the inspector and the employer, when such register is commenced to be kept;

(d) notice of the hours between which young girls or women are to be employed in any factory, as required by section 17, shall be according to form No. 5 in said schedule;

(e) notice to an inspector under sections 39 and 41, may be in the form No. 6 of said schedule;

(f) notice to an inspector, under section 10, may be according to such of the forms No. 7 and No. 8 of such schedule, as the case requires; and.

(g) notice to an inspector, under section 51, may be given in the form No. 9 of said schedule.

76. It shall not be lawful for any factory to be open, or to employ any person in or upon the premises, on any of the statutory or legal holidays, as defined by "The Manitoba Interpretation Act" and any amendment thereof, without permission herefor in writing signed by the inspector; and any contravention of this section shall render the employer liable to a fine not exceeding one hundred dollars. 1916, c. 41, s. 6.

#### SCHEDULES.

The following are the schedules referred to in this Act:—

##### Schedule A.

##### (Section 2.)

##### List of Factories.

Abattoirs.  
Agricultural implement factories.  
Bag and sack factories.  
Bakehouses and bakeshops.  
Baking powder and yeast factories.  
Barrel factories.  
Bicycle factories.  
Biscuit factories.  
Blanket factories.  
Boiler factories.  
Book-binding factories.  
Boot and shoe factories.  
Box factories.  
Brass foundries.  
Breweries.  
Broom factories.  
Brush factories.

Carriage factories.  
Carriage goods (iron) factories.  
Carriage woodwork factories.  
Cartridge factories.  
Car shops.  
Cheese box factories.  
Chemical works.  
Cider factories.  
Cigar factories.  
Cigar box factories.  
Clothing factories.  
Confectionery factories.  
Concentrated egg factories.  
Cooper's workshops.  
Distilleries.  
Domestic utensils factories.  
Dressmaking establishments.

## List of Factories—(Concluded)

|  |                                |
|--|--------------------------------|
| Dye works.                                 | Millinery shops.               |
| Edge tool factories.                       | Ornamental moulding factories. |
| Electric machinery factories.              | Paint works.                   |
| Electrotype factories.                     | Paper bag factories.           |
| Elevators.                                 | Paper box factories.           |
| Envelope factories                         | Patent fertilizer factories.   |
| Extracts and essential oil factories.      | Patent medicine factories.     |
| Felt factories.                            | Piano and organ factories.     |
| Flax mills.                                | Picture frame works.           |
| Foundries.                                 | Planing mills.                 |
| Furniture factories.                       | Plated metal works.            |
| Furriers' workshops.                       | Potteries.                     |
| Galvanized and pressed ironwork factories. | Sash and door factories.       |
| Gun and small arms factories.              | Saw mills.                     |
| Harness and leather factories.             | Sewing machine factories.      |
| Hosiery factories.                         | Shirt factories.               |
| Jams, jellies and pickle works.            | Show case factories.           |
| Knitting factories.                        | Skate works.                   |
| Laundries.                                 | Soap works.                    |
| Laundry, blueing and washing crystal fac-  | Soda water factories.          |
| tories.                                    | Spice and coffee mills.        |
| Linseed oil mills.                         | Tailor shops.                  |
| Lithographers' workshops.                  | Tanneries.                     |
| Locomotive works.                          | Tin box factories.             |
| Machine shops.                             | Trunk factories.               |
| Marble works.                              | Tub and pail works.            |
| Match factories.                           | Type foundries.                |
| Matting factories.                         | Vinegar works.                 |
| Mattress factories.                        | Wagon and sleigh factories     |
| Meat packing establishments.               | Window shade factories.        |
| Metal factories.                           | Woollen mills.                 |

## SUPPLEMENT TO LIST OF FACTORIES.

## Schedule A, Section 2.

|   |  |
|---|--|
| Automobile factories and repair shops.    | Hat factories.                         |
| Boat building plants.                     | Ice manufacturing and storing plants.  |
| Bolt and nut factories.                   | Malting houses and mills.              |
| Brick manufacturing plants.               | Oil refineries.                        |
| Cap factories.                            | Power houses.                          |
| Carpet factories.                         | Pumping plants.                        |
| Creameries.                               | Plaster mills.                         |
| Cement factories.                         | Printing offices, all kinds.           |
| Coal handling plants.                     | Refrigerating plants.                  |
| Canning factories.                        | Railway repair shops.                  |
| Excelsior and flock mills.                | Rolling mills.                         |
| Flour and all grain mills.                | Sausage and preserved meat factories.  |
| Freight and passenger elevators and con-  | Stone quarrying, dressing and crushing |
| veyors, in all factories listed in sche-  | plants.                                |
| dule A.                                   | Structural and bridge plants.          |
| Glove factories.                          | Screw and nail factories.              |
| Garment factories.                        | Safe and scales works.                 |
| Grain elevators and conveyors.            | Tent and awning factories.             |
| Gas manufacturing plants.                 | Toy factories.                         |
| Glass works.                              | Wire fence and grill work.             |
| High pressure heating plants from 30 lbs. |  |
| pressure and upwards.                     |  |

## Schedule B.

Form No. 6.—(Sections 39, 41 and 75.)

"The Manitoba Factories Act."

To , Factories Inspector.

You are hereby notified, pursuant to section 39 (or as the case may be) of "The Manitoba Factories Act," of the happening of an accident in the factory hereunder mentioned, whereof the following are the particulars:—

1. Name of person injured (or killed).
2. Factory in which accident happened.

3. Date of accident.
4. Age of person injured (or killed).
5. Residing \_\_\_\_\_ street in the \_\_\_\_\_ of \_\_\_\_\_
6. Cause of injury (or death).
7. Extent of injury.
8. Where injured (or killed) person sent.
9. Remarks.

Dated this ..... day of ..... 19 .....

(Signature of employer or agent.)

(Forms 1-5 and 7-9 omitted.)

### Fire Prevention.

[Chapter 72, The Fires Prevention Act, and all amendments thereto are replaced by a new Act with the same title, chapter 35, 1917.]

### Exemption of Wages from Garnishment.

Chapter 77.—4. Subject to the provisions of the next following section, any debt due or accruing due to a mechanic, labourer, servant, clerk or employee for wages or salary shall be exempt from seizure or attachment under process issued either out of the Court of King's Bench or out of any of the County Courts, to the extent of the sum of forty dollars. If at the time of the process taking effect upon the garnishee there is less than one month's salary or wages due to such mechanic, workman, labourer, servant, clerk or employee, the extent of the exemption shall be at the rate of forty dollars per month for the time such salary or wages are due or accruing due.

5. There shall be no right to exemption of any part of the primary debtor's wages in any case where the debt has been contracted for board or lodging and, in the opinion of a judge of the court in which the action has been brought, such exemption is not necessary for the support and maintenance of the debtor, or of his family or relatives depending on him for support. In any such case such judge may order that no such exemption shall be allowed.

### Protection of Employees near Horse-power Machines.

Chapter 87.—1. This Act may be cited as The Horse Power Machines Act.

2. All persons owning or running any threshing or wood sawing machines or other machine, which is connected to a horse-power by means of a tumbling rod or line of shafting, shall cause each of the knuckles, couplings or joints and jacks of such tumbling rod or line of shafting, to be safely boxed or secured, while running, with wood, leather, or metal covering, in such manner as to prevent injury to persons passing over or near such tumbling rod or line of shafting, and the knuckles, couplings and joints thereof, and shall cause all oiling cups attached to arbours or journals to which driving belts are attached to be furnished with tubes of tin or other material, which shall prevent damage from oiling when the machine is in motion, and shall further cause a driver's platform to be placed on any horse-power used for driving machinery, of such size as to cover the gearing constituting said horse-power, and in such manner as to prevent accidents arising to any person from contact with said gearing.

3. Any person owning or running any threshing, wood-sawing or other machine, connected to a horse-power by means of a tumbling rod or line of shafting, who shall neglect or refuse to comply with the provisions of this Act, shall be liable to a fine of not less than one dollar nor more than twenty dollars, and, in default of payment, to imprisonment for a period of not less than two nor more than twenty days.

4. No action shall be maintained, nor shall any legal liability exist, for services rendered by or with any machine, as mentioned in section 2, unless the provisions of said section have been complied with.

5. All fines imposed and collected under this Act shall be paid, one-half to the complainant or prosecutor and the other half to the treasurer of the school section in which the offence was committed, for the use of the public school in such section; and all proceedings against any person for any violation of section 2 shall be commenced within thirty days after the commission of the offence.

### Apprenticeship.

Chapter 94.—21. A parent, guardian or other person having the care or charge of a minor, or any charitable society, or society incorporated under "The Humane Societies Act," being authorized in case of either society by the Lieutenant-Governor in Council to exercise the powers conferred by this Act, and having the care or charge of a minor, the minor being a male and not under the age of fourteen years, may, with the consent

of the minor, put and bind him as an apprentice by indenture to any respectable and trustworthy master, mechanic, farmer or person carrying on a trade, profession or calling, for a term not to extend beyond the minority of the apprentice; or, in case of a female not under the age of twelve years, may, with her consent, bind her to any respectable and trustworthy person for any term, not to extend beyond the term of eighteen years of age or the marriage of the ward within that age.

22. When the father of an infant child abandons and leaves the child with the mother, such mother, with the approbation of two justices of the peace, may bind the child as an apprentice to any person mentioned in the last preceding section, until the child attains the age of twenty-one years, in case of a male, and eighteen years in case of a female; and an indenture to that effect, under the hand and seal of the mother and countersigned by such justices, shall be valid; but no child having attained the age of fourteen years shall be so apprenticed, unless he or she consents.

23. In a city, town or village the mayor or a judge or a police magistrate, and in a rural municipality any such judge, may put and bind for a like period, to any person mentioned in the several sections of this Act, with the consent of such person and of the minor, any minor who is an orphan or has been deserted by his or her parents or guardian, or whose parents or guardian have been, for the time being, committed to a common gaol or penitentiary, or any minor who is dependent upon public charity for support; and such apprentice and the master of such apprentice shall be held bound in the same manner as if the apprentice had been bound by his or her parent.

24. All wages reserved by an indenture or otherwise to be paid for the service of any minor, shall, if not payable to the parent, be either payable to the minor or to some person for the benefit of the minor.

#### Remedies for Breach of Duty—Discharge from Apprenticeship.

25. The Court or any judge or a police magistrate, upon complaint by any minor bound as aforesaid, or by any person on his or her behalf, or by the person to whom the apprentice is bound, may alter the mode in which payment of wages is to be made, by directing payment to the apprentice or to some other person, in lieu of the manner set out in the indenture; or may, upon proof of gross misconduct or neglect of duty, annul the indenture of apprenticeship or of service, and may compel the person in whose possession, power, custody or control the indenture is to produce, and deliver the same in court, in order to have the indenture cancelled or to have the order varying the indenture endorsed thereon, as the case may be.

26. Any judge or police magistrate may, after allowing a reasonable time for production and delivery, issue a warrant for the imprisonment of the person in default for any term not exceeding six months, unless the indenture or instrument be sooner produced and delivered for the purpose aforesaid and all costs be sooner paid.

27. Any judge or Surrogate Court in any case, and a police magistrate in case the apprenticing of a child under this Act has not been by the parent of the child or by a court or judge, may, upon the application of either the parent or the child, cancel the indenture of apprenticeship, if satisfied that the same was injudiciously or improperly entered into.

#### Licensing of Bar Tenders—Employment of Women and Minors in Bar Rooms—Payment of Wages in Hotels.

[Chapter 113, The Liquor License Act, contains sections regulating the licensing of bar tenders, prohibiting the employment of women and minors to serve liquor, and prohibiting the payment of wages in a hotel or other place licensed to sell liquor. This chapter with all amendments thereto is repealed by 1916, chapter 112, The Temperance Act, which went into effect June 1, 1916.]

#### Sunday Labour.

Chapter 119.—2. It is not lawful for any merchant, tradesman, barber, artificer, mechanic, workman, labourer or other such person, on the Lord's Day, or the day commonly called Sunday, to sell or publicly show forth, or expose, or offer for sale, or to purchase, any goods, chattels or other personal property, or any real estate whatsoever, or to do or exercise any worldly labour, business or work of his ordinary calling (conveying travellers or His Majesty's mail, by land or by water, selling drugs and medicines, and other works of necessity and of charity, only excepted).

6. Any person who commits any act hereinbefore declared not to be lawful, shall for every such offence be liable to a fine of not more than forty dollars, nor less than one dollar, and, in default of payment, to imprisonment for a term not exceeding one month.

9. The prosecution for any offence punishable under this Act shall be commenced within one month after the commission of the offence, and not afterwards.

10. This Act shall not be held to repeal any laws respecting the Lord's Day or Sunday now in force in Manitoba, but shall be construed as in addition thereto.

### Earnings of Married Women.

Chapter 123.—2. (b) the expression "property" means any real or personal property, of every kind and description, of a married woman, whether acquired before or after the commencement of this Act, and shall include the rents, issues and profits of any such real or personal property, and includes also things in action, and all wages, earnings, money and property, gained or acquired by a married woman, in any employment, trade or occupation in which she is engaged or which she carries on separately from her husband, and in which her husband has no proprietary interest, or by the exercise of her literary, artistic or scientific skill.

4. A married woman shall without prejudice and subject to the trusts of any settlement affecting the same, be entitled to acquire, have, hold and dispose of all property of which she was seized at the time of her marriage, or which in any way whatsoever has been or shall hereafter be acquired by her, or has devolved or shall devolve upon her, after marriage, free from the control of her husband, and from any liability on account of his debts, as fully as if she were unmarried.

### Employment of Labour—General Provisions.

Chapter 124.—1. This Act may be cited as The Masters and Servants Act.

#### Contracts of Service.

2. Every contract of hire for personal service for a period longer than a year shall be in writing and signed by the party to be charged therewith, and no voluntary contract of service or indenture entered into by any parties shall be binding on them or either of them for a longer term than nine years from the date of such contract.

#### Apprentices.

3. If the master of an apprentice die, the apprentice, if a male, shall by act of law be transferred to the person, if any, who continues the establishment of the deceased; and such person shall hold the apprentice upon the same terms as the deceased, if alive, would have done.

4. A master may transfer his apprentice, with his consent, to any person who is competent to receive or take an apprentice, and who carries on the same kind of business.

5. Every master shall provide his apprentice, during the term of his apprenticeship, with suitable board, lodging and clothing, or such equivalent therefor as is mentioned in the indenture, and shall also properly teach and instruct him, or cause him to be taught and instructed, in his trade, profession or calling.

6. Every apprentice shall, during the term of his apprenticeship, faithfully serve his master, and obey all his lawful and reasonable commands, and shall not absent himself from his service, day or night, without his master's consent.

7. If any apprentice become insane, or be convicted of a felony, or be sentenced to the penitentiary, or abscond, his master may, within one month then next ensuing, but not afterwards, avoid the indenture of apprenticeship from the time he gives notice in writing of his intention so to do to the other parties to the indenture, either by serving them with the notice or a copy thereof, or by inserting the same in The Manitoba Gazette or in a newspaper of the municipality where the master's establishment is situated.

8. If any apprentice absent himself from his master's service or employment before the time of his apprenticeship expires, he may at any time thereafter, if found in Manitoba, be compelled to serve his master for so long a time as he has so absented himself, unless he make satisfaction to his master for the loss sustained by such absence.

9. If an apprentice refuse to serve as in the last preceding section required, or to make such satisfaction to his master, or to obey the lawful commands of his master, or in any other way refuse or neglect to perform his duty to his master, and if the master, or his overseer or agent, complains on oath to a justice of the peace, either in the municipality where the master resides or in any municipality where the absconding apprentice is found, such justice may cause the apprentice to be summoned to appear, or to be apprehended and brought, before him or before some other justice; and such justice, upon hearing the complaint shall determine what satisfaction shall be made by the apprentice to the master. If the apprentice do not give or make such satisfaction immediately or, in case the satisfaction be of such a nature as not to admit of immediate performance, if he do not furnish sufficient security to make such satisfaction or give evidence that he will do so, then the justice may commit him to a common gaol for any time not exceeding three months, and such imprisonment shall not release him from the obligation to make up the lost time to the master.

10. Where the apprentice has not left Manitoba or, having left Manitoba, has returned thereto, the master shall not proceed against the apprentice under the two last preceding sections, except within the three years next after the expiration of the term for which the apprentice contracted to serve or next after his return, as the case may be.

#### Misconduct of Servant or Apprentice.

11. Any clerk, journeyman, apprentice, servant or labourer engaged, bound or hired, either by a written or verbal contract or agreement, for any period of time within the provisions of this Act, who is guilty of ill-behaviour, drunkenness, refractory conduct or idleness, or of deserting from his service or duties, or of absenting himself by day or by night without leave from his said service or employment, or from the house or residence of his employer, or who refuses or neglects to perform his just duties, or to obey the lawful commands which may be given him by his master, or who is guilty of dissipating his master's property or effects, or of any unlawful act that may affect the interests of his master injuriously, shall be liable to a penalty not exceeding twenty dollars and, in default of payment thereof, to imprisonment for a period not exceeding one month.

12. Any domestic servant, journeyman or labourer engaged by the month or a longer or shorter period of time, or by the piece or job, who deserts or abandons the service or job, or who neglects or refuses to perform the job or work for which he was engaged, before the time agreed upon or before the completion of the agreement, shall for each offence of such nature be liable to the like penalty and imprisonment as that provided in the last preceding section.

13. Subject to the provisions of the Act of the Parliament of Canada known as the "Alien Labour Act," any clerk, journeyman, apprentice, servant or labourer, engaged, bound or hired as provided for in section 11 of this Act in any place outside of Manitoba, for any period of time within the provisions of this Act, for services, work or labour to be rendered or performed in Manitoba, and who, at the time of entering into such engagement, was clearly engaged to service in Manitoba, or to perform such work, job or contract in Manitoba, shall be fully bound by such agreement as if the same were made and entered into in Manitoba, and shall be liable to the penalty and imprisonment mentioned in the two preceding sections.

14. Nothing in the foregoing sections contained shall prevent any employer from recovering in any court of competent jurisdiction from any person who shall fail to fulfil his engagement or neglect to perform his duties as set forth in any such engagement and as provided for herein, repayment of all moneys paid out for passage or other expenses incurred by any employer in bringing any such clerk or journeyman, apprentice or domestic servant or labourer to the province, or from recovering, as aforesaid, any damages resulting from ill-behaviour, or neglect or refusal of any person above-mentioned to fulfil his engagement, or to perform the job, work or labour for which he was engaged, in addition to the said penalty hereinbefore provided for.

#### Harbouring Absconding Servants or Apprentices.

15. Any person knowingly harbouring or concealing any apprentice or servant engaged by written or verbal contract or agreement, who has abandoned the service of his master, or instigating any apprentice or servant to abandon such, or keeping such apprentice or servant in his service after being notified of the fact of such abandonment in writing, shall be liable, on conviction, to the like penalty and imprisonment as that provided in section 11, and any person offending as aforesaid may be also proceeded against for damages in any court of competent jurisdiction by any person interested or suffering such loss or damage by reason of such abandonment.

#### Misconduct or Default of Master.

16. If any master refuse necessary provisions to, or misuse or ill-treat, his apprentice, he shall be liable to a penalty not exceeding twenty dollars and, in default of payment, to imprisonment for a term not exceeding one month.

17. Any person in the employment, or who has been in the employment, of another within the period hereinafter limited for laying a complaint or information, and having just cause of complaint against his employer for non-payment of wages actually earned in the service of such employer or legally payable under the contract or agreement of service, may, on complaint upon oath, before a justice of the peace, stating the cause of complaint and amount of claim, cause such employer to be summoned to answer such complaint; and such complainant, if his complaint in the opinion of the justice be well founded, shall be entitled to a discharge from his employment if the term of service had not expired, and whether he was still in actual service with such employer or not, and shall also be entitled to recover, and the justice may order the employer to pay such complainant, the amount of wages found to be due up to the time when such service could or would be legally ended by notice from said employer or by effluxion of time, not to exceed, exclusive of costs, the sum of one hundred dollars, or

such lesser amount as he may think just and reasonable under the circumstances of the case, together with costs of prosecution, including an allowance to the complainant for his personal attendance as a witness on his own behalf.

18. For the purpose of determining the amount which the justice may think just and reasonable under the circumstances of the case, he may take into consideration any damages or loss alleged to have been occasioned to the employer by reason of any wilful or malicious act or neglect of the servant or workman during the period of the employment in respect of which the cause of complaint has arisen, or by reason of any breach of the contract of service, committed by the servant or workman, and shall state in his finding the fact of having considered such damages and to what extent the same were allowed; but such justice shall have no jurisdiction to award any balance or sum in favour of the employer.

#### Prosecutions.

19. An information or complaint founded upon a contravention of any of the provisions of this Act may be heard and determined before any justice in the municipality or judicial division in which the person complained against resides or, in case of a clerk, journeyman, apprentice or servant deserting his service, then in the municipality in which such clerk, journeyman, apprentice or servant is found, and such justice may by warrant or summons require the attendance of the party complained against before him, and may determine such complaint in a summary manner; or any penalty, claim or demand arising out of a contravention of any such provisions may be sued for in any court of competent jurisdiction.

20. Any penalty or sum of money ordered by a justice to be paid under the authority of this Act, including costs, may be so ordered to be paid forthwith, or within such time as the said justice shall name; and in case of the non-payment thereof as so ordered, the said justice may issue his warrant of distress to levy such penalty, or sum of money, and costs by seizure and sale of the goods and chattels of the party against whom such order was made.

21. Notwithstanding anything contained in "The Executions Act," a distress warrant issued by a justice of the peace for the recovery of wages under this Act, may be executed against the personal estate mentioned in paragraph (a) of section 29 of said Act; and such warrant shall, as against the crops grown on the premises on which the labour of the servant was performed, take priority, to the extent of seventy-five dollars and no more, over all landlords, or mortgagees' warrants, bills of sale and chattel mortgages executed after the labour in respect of which proceedings were taken was commenced, and over all writs of execution or other processes issued by any other court in this province after the commencement of such labour:

Provided, however, that the provisions of this section shall not apply to any claim for wages by any person related or connected by marriage with the master.

22. If any sum of money be due and payable for wages or otherwise by any master or complainant in any proceeding taken under section 11, 12 or 13, in which a conviction for any penalty with or without costs shall be obtained, the justice may order the said money, or so much thereof as shall be sufficient to discharge such penalty and costs, to be paid over to him, and may further discharge said master or complainant from the payment of any balance or portion of a balance remaining due after the settlement of said penalty and costs, if any; and the receipt of the said justice, or of his clerk, for the amount so paid over, and a certificate or minute of such discharge, shall exonerate the said master or complainant from all liability to the party complained against in respect to said balance or portion thereof.

23. The Justice shall have power, in dismissing any complaint or otherwise, in his discretion, to order the complainant to pay the costs of the proceeding, to be recovered by distress or order as herein mentioned.

24. Except as hereinbefore provided, complaints or prosecutions against any person under this Act shall be laid or commenced within six months after the offence has been committed or the cause of complaint has arisen; and no complaint, prosecution, conviction or other proceeding under this Act shall be considered void or defective or be quashed or set aside for or on account of any want of form, so long as the general provisions of this Act are complied with and the proceedings taken thereunder are within the spirit and intent thereof.

25. All pecuniary penalties imposed by this Act shall be paid over, forthwith after the same have been received or recovered, to the Provincial Treasurer, to form part of the Consolidated Revenue Fund of the Province.

26. Except as hereinafter provided, any person who thinks himself aggrieved by any conviction, order or decision of any Justice under this Act, may appeal therefrom in the same manner as is provided for by "The Manitoba Summary Convictions Act"; and in case of dismissal of the appeal or affirmation of the conviction, order or decision the court appealed to shall order and adjudge the said conviction, order or decision to be enforced, with the payment of the costs awarded, and shall, if necessary, issue process for carrying its judgment into effect.



27. There shall be no appeal from any judgment rendered or any order made under the provisions of this Act, nor shall any judge or court entertain any application for a writ of *certiorari* or other proceeding to quash or set aside any such judgment or order, in any case where the amount for which judgment is rendered or order made does not exceed the sum of twenty-five dollars, and where witnesses have been heard and the judgment has been rendered or order made by any police magistrate having jurisdiction in the territorial division in which the judgment or order has been rendered or made, except where the magistrate has taken into consideration the question of damages occasioned by reason of any wilful or malicious act or negligence of the servant or workman as aforesaid.

### Mechanics' and Wage Earners' Liens.

Chapter 125 with amendment—1. This Act may be cited as The Mechanics' and Wage Earners' Lien Act.

#### Interpretation.

2. In this Act, unless the context otherwise requires,—

(a) the expression "contractor" means a person contracting with or employed directly by the owner or his agent for the doing of work or placing or furnishing of materials for any of the purposes mentioned in this Act;

(b) the expression "sub-contractor" means a person not contracting with or employed directly by the owner or his agent for the purposes aforesaid, but contracting with or employed by a contractor, or under him by another sub-contractor;

(c) the expression "owner" extends to and includes any person, firm, association, body corporate or politic, including a municipal corporation, having any estate or interest in the lands upon or in respect of which the work or service is done, or materials are placed or furnished, at whose request and upon whose credit or on whose behalf or with whose privity or consent or for whose direct benefit any such work or service is performed or materials are placed or furnished, and all persons claiming under him or them whose rights are acquired after the work or service in respect of which the lien is claimed is commenced or the materials furnished have been commenced to be furnished;

(d) the expression "person" extends to and includes a body corporate or politic, a firm, partnership or association;

(e) the expression "material" includes every kind of movable property;

(f) the expression "registry office" includes a land titles office;

(g) the expression "registrar" includes a district registrar;

(h) the expression "wages" means money earned by a mechanic or labourer for work done, whether by the day or as piece work;

(i) the expression "judge" means a judge of the County Court of the judicial division in which the property affected by a lien is situated.

#### Origin and Nature of Liens.

3. No agreement shall be held to deprive anyone otherwise entitled to a lien under this Act, and not a party to the agreement, of the benefit of the lien; but the lien shall attach, notwithstanding such agreement.

4. Unless he signs an express agreement to the contrary, any person who performs any work or service upon or in respect of, or places or furnishes any materials to be used in the making, constructing, erecting, fitting, altering, improving or repairing of, any erection, building, land, wharf, pier, bulkhead, bridge, trestle-work, vault, mine, well, excavation, sidewalk, paving, fountain, fish pond, drain, sewer, aqueduct, roadbed or way, or the appurtenances to any of them, for any owner, contractor or sub-contractor, shall by virtue thereof have a lien for the price of such work, service or materials upon the erection, building, land, wharf, pier, bulkhead, bridge, trestle-work, vault, mine, well, excavation, sidewalk, paving, fountain, fish pond, drain, sewer, aqueduct, roadbed, way, and appurtenances thereto, and the lands occupied thereby or enjoyed therewith, or upon or in respect of which the said work or service is performed, or upon which such materials are placed, or furnished to be used, limited, however, in amount to the sum justly due to the person entitled to the lien and to the sum justly owing (excepting as herein provided) by the owner:

Provided that no such lien shall exist under this Act for any claim under the sum of twenty dollars.

(2) Such lien, upon registration as hereinafter provided, shall arise and take effect from the date of the commencement of such work or service, or from the placing of such materials, as against purchasers, chargees or mortgagees under instruments, registered or unregistered.

5. The lien shall attach upon the estate or interest of the owner as defined by this Act in the erection, building, land, wharf, pier, bulkhead, bridge, trestle work, vault, mine, well, excavation, sidewalk, paving, fountain, fish pond, drain, sewer, aqueduct,

roadbed or way, and the appurtenances thereto, upon or in respect of which the work or service is performed or the materials are placed or furnished to be used, and the lands occupied thereby or enjoyed therewith.

(2) In cases where the estate or interest charged by the lien is leasehold, the fee simple may also, with the consent of the owner thereof, be subject to said lien, provided such consent is testified by the signature of such owner upon the claim of the lien at the time of the registering thereof, and duly verified.

(3) If the land upon or in respect of which the work is done, or materials or machinery are placed, be encumbered by a mortgage or other charge existing or created before the commencement of the work or of the placing of the materials or machinery upon the land, such mortgage or other charge shall have priority over a lien under this Act to the extent of the actual value of such land at the time the improvements were commenced.

6. Where any of the property upon which a lien is given by this Act is wholly or partly destroyed by fire, any money received by reason of any insurance thereon by an owner or prior mortgagee or chargee shall take the place of the property so destroyed and shall, after satisfying any prior mortgage or charge in the manner and to the extent set out in subsection (3) of the last preceding section, be subject to the claims of all persons for liens to the same extent as if such moneys were realized by a sale of such property in an action to enforce a lien.

7. Save as herein provided, the lien shall not attach so as to make the owner liable for a greater sum than the sum payable by the owner to the contractor.

8. Save as herein provided, where the lien is claimed by any other person than the contractor, the amount which may be claimed in respect thereof shall be limited to the amount owing to the contractor or sub-contractor or other person for whom the work or service has been done or the materials have been placed or furnished.

9. In all cases the person primarily liable upon any contract under or by virtue of which a lien may arise under the provisions of this Act shall, as the work is done or materials are furnished under any contract, deduct from any payments to be made by him in respect of such contract, and retain for a period of thirty days after the completion or abandonment of the contract, twenty per cent of the value of the work, service and materials actually done, placed or furnished, as defined by section 4 of this Act, and such value shall be calculated on the basis of the price to be paid for the whole contract:

Provided that, when any contract exceeds fifteen thousand dollars, the amount to be retained shall be fifteen per cent instead of twenty per cent.

(2) The liens created by this Act shall be a charge upon the amounts directed to be retained by this section, in favour of sub-contractors whose liens are derived under persons to whom such moneys so required to be retained are respectively payable.

(3) All payments, up to eighty per cent (or eighty-five per cent where the contract price exceeds fifteen thousand dollars) of such value, made in good faith by an owner to a contractor, or by a contractor to a sub-contractor, or by one sub-contractor to another sub-contractor, before notice in writing of such lien given by the person claiming the lien to the owner, contractor or sub-contractor, as the case may be, shall operate as a discharge *pro tanto* of the lien created by this Act.

(4) Payment of the percentage required to be retained under this section may be validly made so as to discharge all liens or charges under this Act in respect thereof after the expiration of the said period of thirty days mentioned herein, unless in the meantime proceedings have commenced under this Act to enforce any lien or charge against such percentage as provided by section 21 of this Act.

10. If an owner or contractor chooses to make payments to any persons referred to in section 4 of this Act for or on account of any debts justly due to them for work or service done or for materials placed or furnished to be used as therein mentioned, and within three days afterwards gives, by letter or otherwise, to the contractor or his agent, or to the sub-contractor or his agent, as the case may be, written notice of such payments, such payments shall as between the owner and the contractor or as between the contractor and the sub-contractor, as the case may be, be deemed to be payments to the contractor or sub-contractor, as the case may be, on his contract generally, but not so as to effect the percentage to be retained by the owner, as provided by the last preceding section.

11. The lien created by this Act shall have priority over all judgments, executions, assignments, attachments, garnishments and receiving orders recovered, issued or made after such lien arises, and over all payments or advances made on account of any conveyance or mortgage after notice in writing of such lien to the person making such payments or after registration of such lien as hereinafter provided.

(2) In case of an agreement for the purchase of land, and the purchase money or part thereof being unpaid and no conveyance made to the purchaser, the purchaser shall, for the purposes of this Act and within the meaning thereof, be deemed a mortgagor and the seller a mortgagee.

(3) Excepting where it is otherwise declared by this Act, no person entitled to a lien on any property or to a charge on any moneys under this Act shall be entitled to any priority or preference over another person of the same class entitled to a lien or charge on such property or moneys under this Act, and each class of lienholders, except where it is otherwise declared by this Act, shall rank *pari passu* for their several amounts, and the proceeds of any sale shall, subject, as aforesaid, be distributed among the lienholders *pro rata*, according to their several classes and rights.

12. Every mechanic or labourer whose lien is for work done for wages shall, to the extent of thirty days' wages, have priority over all other liens derived through the same contractor or sub-contractor to the extent of and on the twenty per cent or fifteen per cent, as the case may be, of the contract price directed by section 9 of this Act to be retained, to which the contractor or sub-contractor through whom such lien is derived is entitled, and all such mechanics and labourers shall rank *pari passu* on said twenty per cent or fifteen per cent, as the case may be.

(2) Every wage-earner shall be entitled to enforce a lien in respect of a contract not completely fulfilled.

(3) If the contract has not been completely fulfilled when the lien is claimed by wage-earners, the percentage aforesaid shall be calculated on the work done or materials furnished by the contractor or sub-contractor by whom such wage-earners are employed.

(4) where the contractor or sub-contractor makes default in completing his contract the percentage aforesaid shall not, as against a wage-earner claiming a lien under this Act, be applied to the completion of the contract or for any other purpose by the owner or contractor, nor to the payment of damages for the non-completion of the contract by the contractor or sub-contractor, nor in payment or satisfaction of any claim of any kind against the contractor or sub-contractor.

(5) Every device by an owner, contractor or sub-contractor adopted to defeat the priority given to wage-earners for their wages by this Act shall, as respects such wage-earners, be null and void.

13. During the continuance of a lien no portion of the materials affected thereby shall be removed to the prejudice of the lien, and any attempts at such removal may be restrained on application to a judge.

(2) The judge, to whom any such application is made, may make such order as to the costs of and incidental to the application and order as he deems just.

(3) When any material is actually brought upon any land to be used in connection with such land for any of the purposes enumerated in section 4 of this Act, the same shall be subject to a lien in favour of the person supplying the same until put in the building, erection or work.

#### Registration of Lien.

14. A claim for lien may be registered in the land titles office in which instruments or dealings affecting the lands affected or proposed to be affected thereby are to be registered, if such lands have been brought, or if application has been made to bring them, under the operation of "The Real Property Act;" and if the lands have not been so brought nor application made therefor, then such statement shall be registered in the registry office or land titles office for the registration district or land titles district in which such lands are situate. If the lands are partly under the operation of the said Act and partly not, each portion shall be affected only by registration in the proper office.

15. A claim for lien shall state,—

(a) the name and residence of the person claiming the lien and of the owner of the property to be charged (or of the person whom the person claiming the lien, or his agent, believes to be the owner of the property to be charged) and of the person for whom and upon whose credit the work (or service) is done, or the materials are furnished or placed, and the time or period within which the same was, or was to be, done or furnished or placed;

(b) a short description of the work (or service) done, or the materials furnished or placed, or to be furnished or placed;

(c) the sum claimed as due or to become due;

(d) a description of the land to be charged, sufficient for the purpose of registration;

(e) the date of expiry of the period of credit (if any) agreed by the lienholder for payment for his work (or service) or materials, where credit has been given.

(2) The claim may be in one of the forms given in schedule A to this Act, and shall be verified by the affidavit of the person claiming the lien or of his agent or assignee having a personal knowledge of the matters required to be verified and the affidavit of the agent or assignee shall state that he has such knowledge.

16. A claim for lien may include claims against any number of properties, and any number of persons claiming liens upon the same property may unite therein, but where more than one lien is included in one claim each lien shall be verified by affidavit as provided in the last preceding section.

17. A substantial compliance only with the two last preceding sections shall be required, and no lien shall be invalidated by reason of failure to comply with any of the requisites of the said sections, unless in the opinion of a judge the owner, contractor or sub-contractor, mortgagee or other person, as the case may be, is prejudiced thereby, and then only to the extent to which he is thereby prejudiced.

(2) Nothing in this section contained shall be construed as dispensing with registration of the lien required by this Act.

18. The registrar, upon payment of his fee, shall register the claim, so that the same may appear as an encumbrance against the land therein described.

(2) The fee for registration of a claim of lien for wages shall be twenty-five cents.

19. Where a claim for lien is so registered, the person entitled to the lien shall be deemed a purchase *pro tanto* and within the provisions of "The Registry Act"; but, except as herein otherwise provided, "The Registry Act" shall not apply to any lien arising under this Act.

20. A claim for lien by a contractor or sub-contractor may, in cases not otherwise provided for, be registered before or during the performance of the contract or within thirty days after the completion thereof.

(2) A claim for lien for materials may be registered before or during the furnishing or placing thereof or within thirty days after the furnishing or placing of the last material so furnished or placed.

(3) A claim for lien for services may be registered at any time during the performance of the service or within thirty days after the completion of the service.

(4) A claim for lien for wages may be registered at any time during the performance of the work for which such wages are claimed, or within thirty days after the last day's work for which the lien is claimed.

#### Determination of Lien.

21. Every lien which is not duly registered under the provisions of this Act shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof.

22. Every lien which has been duly registered under the provisions of this Act shall absolutely cease to exist after the expiration of ninety days after the work or service has been completed or materials have been furnished or placed, or the expiry of the period of credit, where such period is mentioned in the claim of lien registered, unless in the meantime an action is commenced to realize the claim under the provisions of this Act or an action is commenced in which the claim may be realized under the provisions of this Act, and a certificate of *lis pendens* in respect thereof, issued from the court in which the action is brought, according to form No. 5 in the schedule hereto, is registered in the proper registry office, or land titles office.

#### Transmission of Lien.

23. In the event of the death of a lienholder his right of lien shall pass to his personal representatives; and the right of a lienholder may be assigned by any instrument in writing.

#### Discharge of Lien.

24. A lien may be discharged by a receipt signed by the claimant or his agent duly authorized in writing, acknowledging payment, and verified by affidavit and registered, the fees for such registration being the same as for registering a claim of lien.

(2) Upon application a judge may receive security or payment into court in lieu of the amount of the claim, and may thereupon vacate the registration of the lien.

(3) The judge may vacate the said registration upon any other ground.

25. The taking of any security for, or the acceptance of any promissory note for, or the taking of any other acknowledgment of, the claim, or the giving of time for the payment of the claim, or the taking of any proceedings for the recovery of the claim or the recovery of any personal judgment for the claim, shall not merge, waive, pay, satisfy, prejudice or destroy any lien created by this Act, unless the lienholder agrees in writing that it shall have that effect.

(2) The discounting or negotiation of any promissory note, or other security, taken or accepted as aforesaid, shall not waive, pay, satisfy, prejudice or destroy any lien created by this Act, but the lienholder taking or accepting such promissory note, or other security, shall retain his lien for the benefit of the holder of said promissory note or other security.

Provided, however, that a person who has extended the time for payment of any claim for which he has a lien under this Act, shall, in order to obtain the benefit of this section, commence an action to enforce such lien within the time limited by this Act, and register a certificate as required by this Act, but no further proceedings shall be taken in the action until the expiration of such extension of time;

Provided, further, that, notwithstanding such extension of time, such person may, where an action is commenced by any other person to enforce a lien against the same property, prove and obtain payment of his claim in such action, as if no such extension had been given.

#### Discovery.

26. Any lienholder or person entitled to a lien may at any time demand of the owner or his agent the terms of the contract or agreement with the contractor for and in respect of which the work, services or materials is or are performed or furnished or placed, and if such owner or his said agent shall not, at the time of such demand or within a reasonable time thereafter, inform the person making such demand of the terms of such contract or agreement and the amount due and unpaid upon such contract or agreement, or shall intentionally or knowingly falsely state the terms of said contract or agreement or the amount due or unpaid thereon, and if the person claiming the lien sustain loss by reason of such refusal or neglect or false statement, said owner shall be liable to him in an action therefor to the amount of such loss.

(2) A judge may, on a summary application at any time before or after any action is commenced for the enforcement of such lien, make an order for the owner or his agent to produce and allow any lienholder to inspect any such contract, and may make such order as to the costs of such application and order as may be just.

#### Enforcement of Lien.

27. A lien created by this Act, whatever the amount thereof, may be realized by action in the County Court of the judicial division in which the property affected by the lien is situated, according to the ordinary procedure of such court, except where the same is varied by this Act.

28. A writ of summons shall not be issued, but the action shall be commenced by filing in the office of the court a statement of claim, entitled in the court and cause, giving in plain and ordinary language the grounds and particulars of the claim.

29. The statement of claim and every copy thereof served shall contain or have endorsed upon it a notice giving the name and address of the solicitor who issues the same or of the plaintiff, if issued by the plaintiff in person, and the office in which and the time within which the statement of defence is to be filed.

30. A defendant may, within sixteen days after being served with the statement of claim, file in the office of the court a statement of defence, entitled in the court and cause, showing clearly and concisely the nature of his defence, and serve on the plaintiff or his solicitor a copy thereof, and if he fail to do so he shall, unless otherwise ordered by a judge, be precluded from disputing the plaintiff's claim and right to a lien, and the plaintiff shall have the right to sign interlocutory judgment against the defendant in a manner similar to the signing of such judgment in an action in the Court of King's Bench.

(2) The defendant may, in a proper case, be allowed in to defend by order of the judge upon such terms as he shall think just.

31. The statement of defence, and the copy thereof served, shall contain or have endorsed upon it a notice giving the name and address of the solicitor who files the same, or of the defendant if filed by the defendant in person.

32. It shall not be necessary to make any lienholders parties defendant to the action, but all lienholders served with the notice of trial shall for all purposes be treated as if they were parties to the action.

33. Any number of lienholders claiming liens on the same property may join in an action, and any action brought by a lienholder shall be taken to be brought on behalf of all other lienholders on the property in question.

34. After the filing and service of the statement of defence, or after the time for filing and serving the same, if none is filed and served, upon application to a judge by any party to the action, he shall give an appointment, fixing a time and place for the trial of the action, which time may be the date of the ordinary sittings of the court or otherwise.

35. The party obtaining such appointment shall, at least eight clear days before the day fixed for the trial (unless the judge directs that a shorter notice may be given), serve a notice of trial, which may be according to form No. 10 in schedule A to this Act, upon the solicitors for the parties who appear by solicitors, and on all lienholders known to him who have registered their liens as required by this Act, and on all other persons having any registered charges, encumbrances or claims on the property affected by the lien, who are not parties or who, being parties, appear personally in the said action; and such service shall be personal, unless otherwise directed by the judge, who may, in lieu of personal service, direct in what manner the notice of trial may be served.

36. Every lienholder not already a plaintiff in the action shall, within six days after being served with the notice of trial, file in the office of the court a statement

showing the grounds and particulars of his claim, and, if he fail to do so, he shall, unless otherwise ordered by the judge, be precluded from asserting his lien.

37. On the day fixed for the trial, or on such other day to which the trial may be adjourned, the judge shall proceed to try the action, and all questions which arise therein or which are necessary to be tried, to completely dispose of the action and to adjust the rights and liabilities of the persons appearing before him or upon whom the notice of trial has been served, and at the trial shall take all accounts, make all inquiries and give all directions, and do all things necessary to try and otherwise finally dispose of the action and of all matters, questions and accounts arising in the action or at the trial, and to adjust the rights and liabilities of and give all necessary relief to all parties to the action or who have been served with the notice of trial, and shall embody all the results in the judgment.

38. The judge may, in the judgment, order that the estate or interest charged with the lien may be sold, and may direct the sale to take place at any time after judgment, allowing, however, a reasonable time for advertising such sale.

(2) The judge may also direct the sale of any materials and authorize the removal thereof.

39. When a sale is bad, the moneys arising therefrom shall be paid into court to the credit of the action, and the judge shall make a report on sale and therein direct to whom the moneys in court shall be paid, and may add to the claim of the person conducting the sale his actual disbursements incurred in connection therewith; and, where sufficient to satisfy the judgment and costs is not realized from the sale, he shall certify the total amount of the deficiency and the proportion thereof falling upon each person entitled to recover, and the persons by the judgment adjudged to pay the same.

(2) The judge may make all necessary orders for the completion of the sale, and for vesting the property in the purchaser.

40. All judgments in favour of lienholders shall adjudge that the person or persons personally liable for the amount of the judgment shall pay any deficiency which may remain after sale of the property adjudged to be sold; and, whenever on such sale sufficient to satisfy the judgment and costs is not realized therefrom, the deficiency may be recovered against the property of such person or persons by the usual process of the court.

41. Whenever any claimant shall fail for any reason to establish a valid lien, he may nevertheless recover in the action a personal judgment against the party or parties to the action for such sum or sums as may appear to be due to him and which he might recover in an action in contract against such party or parties.

42. Any lienholder, who has not proved his claim at the trial, may, on application to the judge who tried the action and on such terms as to costs and otherwise as may be just, be let in to prove his claim at any time before the amount realized in the action has been distributed; and, where such claim is proved and allowed, the judge shall amend the judgment so as to include such claim therein.

43. Where more than one action is brought to realize liens in respect of the same property, a judge may, on the application of any party to any one of such actions, or on the application of any other person interested, consolidate such actions into one action, and may give the conduct of the consolidated action to any plaintiff in his discretion.

44. The judge, on the application of any lienholder entitled to the benefit of the action, may make an order giving such lienholder the carriage of the proceedings, and such lienholder shall thereafter for all purposes be deemed to be the plaintiff in the action.

45. In actions where the total amount of the claims of the plaintiff and all other persons claiming liens is one hundred dollars or less, the judgment at the trial shall be final, binding and without appeal, except that, upon application within fourteen days after judgment is pronounced, the judge who tried the action may grant a new trial.

46. In actions, where the total amount of the claims of the plaintiff and all other persons claiming liens exceeds one hundred dollars, any person affected by the judgment may appeal therefrom to the Court of Appeal, whose judgment shall be final and binding, and no appeal shall lie therefrom. The procedure on such appeal shall be the same as in ordinary cases of appeal from the County Court.

47. The costs of the action awarded by the judge trying the action shall not exceed in the aggregate an amount equal to twenty-five per cent of the amount of the judgment, besides actual disbursements, and shall be in addition to the amount of the judgment, and shall be apportioned and borne as the judge may direct.

48. When the costs are awarded against the plaintiff or other persons claiming liens, such costs shall not exceed in the aggregate an amount equal to twenty-five per cent of the claim of the plaintiff and other claimants, besides actual disbursements, and shall be apportioned and borne as the judge may direct.

49. Counsel fees shall not be deemed disbursements under the next two preceding sections.

50. If the least expensive course is not taken by a party under this Act, the costs allowed to him shall in no case exceed what would have been incurred if the least expensive course had been taken.

51. Notwithstanding anything contained in "The County Courts Act," the costs of and incidental to all actions, applications and orders commenced or made under this Act shall be in the discretion of the judge, subject always to the limitations provided for by sections 47, 48 and 49 of this Act. 1913-14, c. 60, s. 1.

52. Where a lien is discharged or vacated under section 24 of this Act, or when in an action judgment is given in favour of or against a claim for a lien, the judge may allow a reasonable amount for costs of drawing and registering the lien or for vacating the registration thereof.

53. No fees shall be payable on any cheques or proceedings to pay money into court or obtain money out of court in respect of a claim of lien, but sufficient postage stamps to prepay a return registered letter shall be enclosed with every requisition for cheques.

54. In an action brought in the County Court of the judicial division of Winnipeg, a judge of the said court may refer the action to the referee in chambers of the Court of King's Bench, who thereupon shall have the same powers and jurisdiction to hear and dispose of the action and all matters and questions therein involved as a judge would have under this Act, and his judgment shall be subject to the same right of appeal, but the action shall continue to be an action in the County Court, and the proceedings shall be intitled and taken therein, and in all other respects such proceedings shall be the same as if the action had not been so referred.

55. In any case not satisfactorily covered by the procedure provided for by this Act or by the ordinary procedure of the County Court, the practice and procedure of the Court of King's Bench may be adopted and applied.

#### Forms.

56. The forms in the schedule hereto, or forms similar or to the like effect, may be adopted in all proceedings under this Act.

(Schedule omitted.)

### Inspection and Regulation of Mines.

Chapter 128.—1. This Act may be cited as The Mines Act.

#### PART I.—GENERAL PROVISIONS.

##### Interpretation.

2. In this Act, and in orders-in-council or regulations under it, unless the context otherwise requires,—

(a) the expression "mine" means and includes every shaft in the course of being sunk, and every adit, level and inclined plane in the course of being driven for commencing or opening any mine, or for searching for or proving minerals, and all the shafts, levels, planes, works, machinery, tramways and sidings, both below ground and above ground, in and adjacent to a mine, and any such shaft, level and inclined plane belonging to any mine to which this Act applies, together with all rocks, soils or strata containing any ores or minerals, and all roasts-yards, smelting furnaces and other places where the work of mining may be carried on;

(b) the verb "mine" and the participle "mining" mean and include any mode or method of working whatsoever whereby the soil or earth or any rock, stone or quartz may be disturbed, removed, carted, carried, washed, sifted, roasted, smelted, refined, crushed or otherwise dealt with for the purpose of obtaining any metal or metals therefrom, whether the same may have been previously disturbed or not;

(c) the expression "mining division" means and includes any tract of country declared to be a mining division within this Act;

(g) the expression "party wall" means and includes a bank of earth or rock left between two excavations;

(h) the expression "shaft" means and includes pit, and the expression "plan" means and includes a map and section, and a correct copy or tracing of any original plan as so defined;

(i) the expression "machinery" means and includes steam or other engines, boilers, furnaces, stampers or other crushing apparatus, winding or pumping gear, chains, trucks, tramways, tackle, blocks, ropes or tools, and all appliances of whatever kind used in or about or in connection with the mine;

(j) the expression "owner" when used in relation to any mine, means and includes any person or body corporate who is the immediate proprietor, or lessee, or occupier



of any mine, or of any part thereof, and does not mean or include a person or body corporate who merely receives a royalty, rent or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine;

(k) the expression "agent," when used in relation to any mine, means and includes any person having, on behalf of the owner, care or direction of any mine, or of any part thereof, and includes the words "manager" and "superintendent";

(l) the expression "inspector" means and includes any inspector appointed under this Act, and whether for a mining division or any part thereof or for the Province.

#### Mining Divisions.

7. The Lieutenant-Governor in Council may from time to time by order-in-council declare such tract of country as may be described in and by the order-in-council a mining division and by any other subsequent order or orders-in-council may from time to time extend, add to or diminish the limits of the division, or may otherwise amend or may cancel such order-in-council; and from and after the publication in The Manitoba Gazette of such order-in-council the mining division therein mentioned and described and all mines and Crown lands situate in the division shall be subject to the provisions of this Act, and to any regulations to be made under this Act.

#### Inspectors.

8. The Lieutenant-Governor in Council may appoint for the whole of the province of Manitoba, or for every mining division or for any part thereof, or for any number of mining divisions, an inspector, who shall be an officer of the Department of the Provincial Lands Commissioner, and prescribe the duties and fix the salary of such inspector.

### PART IV.—MINING REGULATIONS.

#### Application.

42. This part shall not apply to any mine unless more than six persons other than the owner are employed under ground, nor to stone quarries.

#### Annual Report of Statistics.

43. The owner or agent of every mine to which this part applies shall, on or before the first day of December in every year, send to the department of the Provincial Lands Commissioner a correct return for the year ending on the preceding thirty-first day of October of the number of persons ordinarily employed in or about such mine below ground and above ground respectively, the amount paid for wages to such persons during the year, the quantity in statute weight of the mineral dressed, and of the undressed mineral which has been sold, treated or used during that year, and the value or estimated value thereof.

(2) The return shall be in such form as may be from time to time prescribed by the Provincial Lands Commissioner, who shall furnish forms for the purpose of such returns.

(3) Every owner or agent of a mine who fails to comply with this section, or makes any return which is to his knowledge false in any particular, shall be guilty of an offence against this Act.

#### Powers and Duties of Inspectors.

44. An inspector under this Act shall have power,—

(a) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this part relating to matters above ground or below ground are complied with in the case of any mine to which this part applies;

(b) to enter, inspect and examine any mine to which this part applies, and every portion thereof, at all reasonable times by day and night, but so as not to impede or obstruct the working of the said mine;

(c) to examine into and make inquiry respecting the state and condition of any mine to which this part applies, or any portion thereof, and the ventilation of the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine, or any mine contiguous thereto, and to give notice to the owner or agent in writing of any particulars in which he considers such mine or any portion thereof, or any matter, thing or practice, to be dangerous or defective, and to require the same to be remedied within the period of time named in such notice; and, unless the cause of danger be removed or such defect be remedied within the time named, the owner or agent shall be guilty of an offence against this Act;

(d) to exercise such other powers as may be necessary for carrying this part into effect.

45. Every person who wilfully obstructs any inspector in the execution of his duty under this Act, and every owner or agent of a mine who refuses or neglects to furnish to the inspector the means necessary for making any entry, inspection, examination or inquiry under this Act in relation to such mine, shall be guilty of an offence against this Act.

46. On the occasion of any examination or inspection of a mine the owner shall, if required so to do, produce to the inspector or any other person duly authorized by the Provincial Lands Commissioner an accurate plan of the workings thereof; every such plan as aforesaid shall show the workings of the mine up to within six months of the time of the inspection, and the owner shall, if required by such inspector or other authorized person, cause to be marked on such plan the progress of the workings of the mine up to the time of such inspection, and shall also permit the inspector to take a copy or tracing thereof.

47. Every inspector shall make an annual report of his proceedings during the preceding year to the Provincial Lands Commissioner.

(2) The Provincial Lands Commissioner may at any time direct an inspector to make a special report with respect to any accident (in a mine to which this Act applies) which has caused loss of life or personal injury to any person and in such case may cause such report to be made public at such time and in such manner as he thinks expedient.

48. In the event of a vacancy in the office of mining inspector any notice required by this Act to be given to such officer shall be given to the Provincial Lands Commissioner.

#### General Rules.

49. The following general rules shall, so far as may be reasonably practicable, be observed in every mine to which this part applies:—

(a) An adequate amount of ventilation shall be constantly produced in every mine to such an extent that the shafts, winzes, sumps, levels, underground stables and working places of such mine, and the travelling roads to and from such working places, shall be in a fit state for working and passing therein;

(b) Gunpowder, dualine, dynamite or other explosive or inflammable substance shall only be used under ground in the mine as follows,—

(i) it shall not be stored in the mine in any quantity exceeding what would be required for use during six working days;

(ii) it shall not be taken for use into the workings of the mine except in a securely covered case or canister, containing not more than eight pounds;

(iii) a workman shall not have in use at one time in any one place more than one of such cases or canisters;

(iv) in charging holes for blasting, saving in mines excepted from the operation of this section by the Provincial Lands Commissioner, an iron or steel pricker shall not be used, and a person shall not have in his possession in the mine under ground any iron or steel pricker, and an iron or steel tamping rod or stemmer shall not be used for ramming either the wadding or the first part of the tamping or stemming on the powder;

(v) a charge of powder which has missed fire shall not be unrammed;

(vi) a charge which has missed fire may be drawn by a copper pricker, but in no case shall any iron or steel tool be used for the purpose of drawing or drilling out such charge;

(vii) no gunpowder, dualine, dynamite or other explosive shall be used to blast or break up ore in roastsheaps where by reason of the heated condition of such ore or otherwise there is any danger or risk of premature explosion of the charge;

(c) Every underground plane on which persons travel, which is self-acting, or worked by an engine, windlass or gin, shall be provided (if exceeding thirty yards in length) with some proper means of signalling between the stopping places and the ends of the plane, and shall be provided in every case at intervals of not more than twenty yards with sufficient man-holes for places of refuge.

(d) Every road on which persons travel under ground where the produce of the mine in transit exceeds ten tons in any one hour over any part thereof, and where the load is drawn by a horse or other animal, shall be provided, at intervals of not more than one hundred yards, with sufficient spaces for places of refuge, each of which spaces shall be of sufficient length, and of at least three feet in width between the wagons running on the tramroad and the side of the road; and the Provincial Lands Commissioner may, if he sees fit, require the inspector to certify whether the produce of the mine in transit on the road aforesaid does or does not ordinarily exceed the weight aforesaid;

(e) Every man-hole and space for a place of refuge shall be constantly kept clear, and no person shall place anything in a man-hole or such space so as to prevent access thereto;

(f) The top of every shaft which has opened before the commencement of the actual working for the time being of the mine and has not been used during such actual working shall, unless the inspector otherwise permits, be securely fenced, and the top of every other shaft which for the time being is out of use, or used only as an air shaft, shall be securely fenced, or in either case due notice shall be given by nailing up a sign-board, as the inspector shall direct;

(g) The top and all entrances between the top and bottom of every working or pumping shaft shall be properly fenced, but this shall not be taken to forbid the temporary removal of the fence for the purpose of repairs or other operations, if proper precautions are used;

(h) Where the natural strata are not safe, every working or pumping shaft, adit, tunnel, drive, roadway or other workings shall be securely cased, lined or timbered or otherwise made secure;

(i) Every mine shall be provided with proper and sufficient machinery and appliances for keeping such mine free from water, the accumulation or flowing of which might injuriously affect any other mine;

(j) Where one portion of the shaft is used for the ascent and descent of persons by ladders or a man engine, and another portion of the same shaft is used for raising the material gotten in the mine, the first mentioned portion shall be cased or otherwise securely fenced off from the last mentioned portion;

(k) Every working shaft in which persons are raised shall, if exceeding fifty yards in depth, and not exempted in writing by the inspector, be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft and from every entrance for the time being in work between the surface and the bottom of the shaft to the surface, and from the surface to the bottom of the shaft and to every entrance for the time being in work between the surface and the bottom of the shaft;

(l) A sufficient cover over-head shall be used when lowering or raising persons in every working shaft, except where it is worked by a windlass, or where the person is employed about the pump or some work of repair in the shaft, or where a written exemption is given by the inspector;

(m) A single linked chain shall not be used for lowering or raising persons in any working shaft or plane except for the short coupling chain attached to the cage or load;

(n) There shall be on the drum of every machine used for lowering or raising persons such flanges or horns, and also, if the drum is conical, such other appliances as may be sufficient to prevent the rope from slipping;

(o) There shall be attached to every machine worked by steam, water or other mechanical power, and used for lowering or raising persons, an adequate brake, and also a proper indicator (in addition to any mark on the rope) which shows to the person who works the machine the position of the cage or load in the shaft.

(p) A proper footway or ladder, inclined at the most convenient angle which the space in which the ladder is fixed allows, shall be provided in every working shaft where no machinery is used for raising or lowering persons; and every such ladder shall have substantial platforms at intervals of not more than forty feet, and no such ladder shall be fixed for permanent use in a vertical or overhanging position unless in shafts used exclusively for pumping; in every mine in which vertical or overhanging ladders shall be in use in the shaft at the time when these rules shall be applied to it, they may be retained provided securely fixed platforms be constructed at intervals of not more than thirty feet from each other, and such ladders have sufficient spaces for footholds of not less than six inches;

(q) If more than twelve persons are ordinarily employed in the mine below ground, sufficient accommodation shall be provided, above ground near the principal entrance of the mine, and not in the engine house or boiler house, for enabling the persons employed in the mine to conveniently dry and change their clothes;

(r) Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be and be kept securely fenced;

(s) Every steam boiler shall be provided with a proper steam gauge and water gauge, to show respectively the pressure of steam and the height of water in the boiler, and with a proper safety valve;

(t) No person shall wilfully damage, or without proper authority remove or render useless, any fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam-gauge, water-gauge, safety valve or other appliance or thing provided in any mine in compliance with this Act.

(2) Every person who contravenes or does not comply with any of the general rules in this section shall be guilty of an offence against this Act; and in the event of any contravention of or non-compliance with any of the said general rules in the case of any mine to which this Act applies by any person whomsoever being proved, the owner and agent of such mine, or contractor or foreman employed in or about such mine, shall

each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means by publishing and to the best of his power enforcing the said rules and regulations for the working of the mine to prevent such contravention or non-compliance.

50. Any person who pulls down, injures or defaces any rules, notice or abstract posted up by the owner or agent shall be guilty of an offence against this Act.

51. Every person employed in or about a mine, who is guilty of any act or omission which, in the case of an owner or agent, would be an offence against this part, shall be deemed to be guilty of an offence against this Act, and shall be liable to a penalty not exceeding, if he is an owner or agent, fifty dollars, and, if he is any other person, ten dollars, for each offence, and, if an inspector has given written notice of any such offence, to a further penalty not exceeding five dollars for every day after such notice that such offence continues to be committed.

(2) Where work of any sort in or about a mine is let to a contractor, he shall observe and carry out all the provisions of this part for the prevention of accidents, and in any case of prosecution for an offence against this Act a contractor shall be liable to the same penalties and may be proceeded against in the same way and to the same extent and effect as if he were an owner or agent.

52. No prosecution shall be instituted against the owner or agent of a mine to which this part applies for any offence under this Act except by an inspector, or with the consent in writing of the Attorney-General; and in the case of any offence of which the owner or agent of a mine is not guilty if he proves that he has taken all reasonable means to prevent the commission thereof, an inspector shall not institute any prosecution against such owner or agent if satisfied that he had taken such reasonable means as aforesaid.

#### PART V.—PROSECUTIONS.

53. Every person contravening this Act, or any rule or regulation made under it, in any case where no other penalty or punishment is imposed, shall, for every day on which such contravention occurs, or continues or is repeated, incur a fine of not more than twenty dollars, and, in default of payment, he may be imprisoned for a term of not more than one month.

54. Any complaint or information made or laid in pursuance of this Act shall be made or laid within three months from the time when the matter of such complaint or information respectively arose.

(2) The description of any offence under this Act in the words of this Act shall be sufficient in law.

(3) Any exception, exemption, proviso, excuse or qualification, whether it does or does not accompany the description of the offence in this Act, may be proved by the defendant but need not be specified or negatived in the information, and if so specified or negatived no proof in relation to the matter so specified or negatived shall be required on the part of the informant.

55. Nothing in this Act shall prevent any person from being indicted or liable under any other Act or otherwise to any other or higher penalty or punishment than is provided for any offence by this Act, but so that no person be punished twice for the same offence.

(2) If the court before which a person is charged with an offence under this Act thinks that proceedings ought to be taken against such person for such offence under any other Act or otherwise, the court may adjourn the case to enable such proceedings to be taken.

56. All prosecutions for the punishment of any offence under this Act may take place before any two or more justices of the peace, or before a police magistrate.

57. Fees, penalties and fines received under this Act, and the costs of all such convictions as take place before any inspector or magistrate, shall form part of the Consolidated Revenue Fund of this Province, and be accounted for and otherwise dealt with accordingly.

#### Liability of Directors of Mining Companies for Employees' Wages.

Chapter 129.—10. Notwithstanding anything contained in this [Mining Companies] Act, the provisions of section 35 of "The Companies Act" shall apply to any company incorporated under this Act, and to the directors, labourers, servants and apprentices thereof.

[The provisions in question refer to the liability of directors of companies for the wages of employees. See page 423 of this report.]

#### Examination and Licensing of Chauffeurs.

Chapter 131.—Any application for a license to operate motor vehicles as a chauffeur shall be made to the Municipal Commissioner upon blank forms to be prepared under his authority. Every such application shall be accompanied by a fee of five dollars.

(2) Before such application shall be granted the applicant shall pass such examination as to his qualifications as the Municipal Commissioner may require; and no such license shall be issued until the Municipal Commissioner is satisfied that the applicant is a fit and proper person to receive the same.

(3) For the purpose of conducting the examination aforesaid the Municipal Commissioner shall appoint examiners and cause examinations to be held at convenient points throughout the Province, and as often as may be necessary.

(4) Upon the Municipal Commissioner being satisfied as to the qualifications of the applicant he shall register his name as a chauffeur licensed to operate motor vehicles in this Province, and deliver to him a certificate of such registration, and assign and furnish to him a suitable metal badge, which shall have stamped thereon the words "Manitoba Licensed Chauffeur" and the number assigned to the applicant, which said badge shall thereafter be worn by him in a conspicuous place on the front of his outer garment at all times while he is operating a motor vehicle upon any public highway.

(5) All licenses issued under the provisions of this section shall remain in force, unless suspended or cancelled as hereinbefore provided, for one year from the first day of April preceding the date of issue.

(6) No chauffeur's license shall be issued to any person under the age of eighteen years.

(7) No chauffeur's license shall be issued to a firm or corporation or in the name of more than one person.

20. No chauffeur shall operate a motor vehicle without having been registered under this Act or while his license is suspended, cancelled or revoked.

21. No chauffeur, having registered as provided in the foregoing section, shall operate a motor vehicle without displaying his badge in the manner prescribed in this Act, or voluntarily permit any other person to use his badge or certificate, nor shall any person while operating a motor vehicle use any badge or certificate belonging to any other person, or a fictitious badge or certificate, nor shall any chauffeur or other person operate or use any motor vehicle belonging to any other person without the knowledge and consent of such owner.

#### Examination and Licensing of Moving Picture Operators.

[Chapter 132, The Moving Pictures Act, is replaced by a new Act, chapter 109, 1916, The Public Amusements Act. Sections 18, 21 and 23 of the new Act provide for the examination and licensing of operators as follows:—]

18. The Lieutenant-Governor in Council shall have the power from time to time to make regulations for examining, regulating and licensing moving picture machine operators and their assistants or apprentices, and for prescribing the terms and conditions under which such operators or their assistants or apprentices shall be granted their licenses and under which they shall be employed.<sup>1</sup> 1916, c. 109, s. 18.

21. Every operator who has been duly examined and who has received a license to operate a moving picture machine or similar apparatus, shall, subject to the provisions of this Act, be entitled to operate any such machine in any part of the Province. 1916, c. 109, s. 21.

23. Every person having a license issued under this Act shall on demand exhibit said license to any inspector appointed under this Act or to the manager or proprietor of any theatre where any film or slide is to be exhibited. 1916, c. 109, s. 23.

#### Sunday Street Cars.

Chapter 133.—767. No car operated by horses, or by electricity or other motive power, as a street car or tram car shall be run or operated on Sunday under a penalty of one hundred dollars and costs of prosecution for each offence. Such penalty may be recovered from the person, company, partnership or corporation owning or operating the cars which are run or operated in contravention of this section, and also severally from each officer, servant or agent of the said person, partnership, company or corporation, who is in any way engaged in the work of running or operating such cars in contravention of this section.

(2) This section shall not apply in case of any city or town if and after the right to operate cars shall be given by a vote of the majority of the duly qualified electors in such city or town upon the question of operating a Sunday street car service on a by-law to be submitted by the council at the time of the annual general municipal elections.

<sup>1</sup> Regulations have been issued under this section respecting the various points mentioned therein.

### Employment of Children as Elevator Operators.

Chapter 158 with amendment.—25. No person under the age of sixteen years shall be employed to operate a passenger elevator anywhere in the Province, and any person offending against this section shall be liable, upon conviction thereof before a police magistrate or a justice of the peace, to a fine not exceeding one hundred dollars. 1913-4, c. 83, s. 1.

### Inspection and Regulation of Factories, Construction Camps, etc.—Sanitation.

[Chapter 159, The Public Health Act, section 2 interprets "house" as including factory, and section 26 enumerates in a number of clauses the subjects upon which the Provincial Board of Health may make regulations. Among these are the following:—]

(c) the cleansing, purifying and ventilating of houses, . . . . . buildings and places of assembly, . . . . . by the owners and occupiers and persons having the care and ordering thereof;

(d) the inspection of . . . . . houses . . . . . buildings and places of assembly,

(g) the inspection, licensing, method of constructing, furnishing, equipping and maintaining, cleansing and disinfecting all slaughter houses and other places in which animals are killed and their meats prepared for sale or to be used for food, and all canneries, fish-houses, smoke houses and warehouses in which fish or meat is cured, packed or prepared for sale or to be used as food, and all starch factories, dye works or factories of any kind in which blood, offal, skins, paraffin, tallow, soap, fertilizers or gas are worked up;

(r) the sanitary condition of lumbering, wood cutting, mining, construction, threshing and other camps;

(gg) the plumbing, heating and sanitary condition of buildings, including dwelling houses.

28. The board may make also and amend regulations which it deems necessary for securing health in industrial establishments relating to (a) the supplying of drinking water, (b) lighting, (c) the distance to be left between certain establishments and dwelling houses as well as the arrangement and details of the construction of rooms, (d) cubic space, (e) aeration and ventilation, (f) cleanliness and cleansing, (g) the removal and manner of disposing of dust, gas, vapour and waste produced in the course of the work, (h) the system of drainage, including sinks, lavatories, urinals, privies or closets, and the method of disposing of waste liquids, (i) the temperature of the premises, (j) all other sanitary conditions which may arise in industrial establishments.

103. If a health officer, upon due examination, is satisfied that a cellar, room, tenement or building, occupied as a dwelling place, office, store, shop, restaurant, dairy, laundry, factory or workshop, school or other purpose, has become, by reason of the number of occupants, want of cleanliness, the existence therein of contagious or infectious disease, lack of sewer or water connections or plumbing, lack of adequate ventilation, defective drainage or plumbing, lack of sufficient natural light or other cause, unfit for such purpose, or that it has become a nuisance or in any way dangerous to the health of the occupants, or of the public, he may issue a notice addressed to the owner of such premises, or the agents, or the person in charge of such premises, or any of them, requiring the premises to be put into proper sanitary condition, or if he sees fit, requiring the occupants to quit the premises within such time as he may deem reasonable.

(2) If the person so notified, or any of them, refuse or neglect to comply with the terms of the notice, every person so offending shall be liable to a fine not exceeding twenty-five dollars, and in default to a term of imprisonment not exceeding thirty days; and the health officer may cause the premises to be properly cleaned, make sewer or water connections, install plumbing or effect such alterations as may be necessary to put the premises in a sanitary condition, at the expense of the owner or occupants, or may remove the occupants forcibly and close up the premises, and, if so closed up, the same shall not be re-occupied until put in proper sanitary condition.

(3) A certificate, signed by the said health officer, showing the amount of any and all costs, charges and expenses incurred by the health officer or any of his agents, assistants or employees in making the premises sanitary, or in removing anything on such premises deemed a nuisance, making sewer or water connections, installing plumbing, effecting alterations, or in removing the occupants thereof, shall be filed with the clerk of the municipality, who shall enter or cause to be entered the amount shown in such certificate in the roll against the property affected, and the same shall thereupon become taxes and be collected in the same way that other taxes are collected.

104. If the owner, agent or occupant of any cellar, room, tenement or building, or any part thereof, used as a dwelling place, office, store, shop, restaurant, laundry, dairy, factory or workshop, school or other purpose, refuses or neglects to comply with the notices of the said health officer, requiring him to put a cellar, room, tenement, building, or part thereof, in a sanitary condition, or to install plumbing therein, the said health officer may, either before or after the occupants have left the place, affix to the said building placards declaring the same unfit for occupation and forbidding the use of the same. Such placards shall not be removed without the permission of the health officer, and any person defacing or removing them without his permission shall be guilty of a violation of this Act.

(2) After the condemnation thereof by the health officer as aforesaid, any owner, agent or person renting or allowing to be occupied, or any person occupying such cellar, room, tenement or building, or any portion thereof, without the permission of the said health officer, shall be liable to a penalty of not less than ten dollars per day for each day the same is rented or allowed to be occupied.

#### Inspection and Regulation of Factories—Manufacture of Food Products.

Chapter 159.—129. The owners, occupiers, proprietors or managers, or persons in charge or control of any factory, warehouse, abattoir, packing house, hotel, restaurant, boarding house, market, meat shop, grocery, confectionery, bakery, or other shop or place where meat, fish, flesh, fowl, game, fruit, vegetables, bread, biscuit, cracker, pretzel, pie, cake, flour, meal, cereals, confectionery, candy, pop corn, ice cream, ice cream cones, groceries, pickles, jams, butter, milk, cream or other kinds of food, provisions or merchandise of any nature or kind whatsoever intended for food for man, is manufactured or made or stored, prepared or kept for sale, offered for sale or sold, either by wholesale or retail, shall keep such premises and all parts thereof and all machinery, plant, implements of trade, cupboards, shelves, receptacles, refrigerators, ice boxes, tools and appliances therein and all the contents of such premises in all particulars in a clean, satisfactory, proper and fit condition.

(2) The condition of all such premises and all the plant, machinery, implements of trade, cupboards, shelves, receptacles, refrigerators, ice boxes, tools and appliances therein, and all the contents of such premises, shall be subject at all times to the inspection and orders of any health officer or person acting on his authority, or any inspector.

130. All such premises shall be provided with adequate light and ventilation; from the first day of May to the first day of November all doors leading to the outside and all windows thereof shall be provided with screens so as to exclude flies; no part of any such premises in which any such food is kept or placed shall be used for a living, washing or sleeping room; no bedroom or water closet apartment shall open directly into such part where food is kept. All walls shall be of smooth, durable, impervious substance so as to be easily cleaned; floors shall be smooth and well fitting without crevices to harbour dirt; all wood work shall be painted, varnished or oil finished, and the same shall be renovated as often as the health officer may direct, and plaster walls shall be limewashed twice each year in the months of May and November. There shall be provided for the use of employees adequate water closets and wash basins; if both male and female employees are employed separate sanitary conveniences shall be provided for each sex, and all water closet apartments shall be well ventilated and kept in a perfectly clean and sanitary condition at all times. If near any workroom or room where food is stored, such compartments shall not open directly into such room, but must be separated therefrom by an intervening room, space or passage ventilated into the outside air; all employees or other persons engaged and working in or about any such premises in the manufacturing, preparing, handling, care and sale of any food shall be at all times cleanly in their habits and mode of working and their persons, and shall be attired in overalls or smocks of washing material, the same to be changed as often as necessary; no person shall smoke in any such place where food is stored or kept, nor shall any person spit on the floors. Cuspidors shall be provided which shall be cleaned daily; such premises and all parts thereof and all machinery, plant, implements of trade, cupboards, shelves, refrigerators, ice boxes, tools and appliances therein and all the contents of such premises shall be at all times and in all particulars kept in a clean, satisfactory, proper and fit condition; and at least three hundred cubic feet of air space shall be provided for each employee. In the case of basements, where the floor is below the level of the street or surrounding ground, the health officer shall not approve such premises as suitable unless the same are well constructed, with proper drainage, adequate natural light and good ventilation. The walls of such basements shall be of brick, stone or concrete, and the floors of cement concrete at least six inches in thickness; in any part of such basement used for the manufacture or preparation of food, the walls and floors shall be of smooth finish and there shall also be proper ceilings with smooth surface; if only a portion of the basement is to be used



for preparing food, said portion shall be properly partitioned off from floor to ceiling from the rest of the basement, and, when light is received into such basement from one side only, such partitions shall have at least one-half their area of glass; no water closet compartment shall be located in that portion of the basement used for preparing or storing of food, and no coal, coke, wood or ashes shall be stored, nor any furnace located therein.

#### Inspection and Regulation of Bake Shops—Sanitation.

Chapter 159.—193. In addition to any other provisions of this Act applicable to bakeries and bake shops, the following provisions shall specially apply thereto:—

(g) The health officer or officers appointed by him shall make frequent visits to all bakeries, shops, stores, warehouses or other buildings in which bread or breadstuffs are baked, made or offered for sale, and inspect the sanitary condition of each place visited and the quality of the ingredients or materials used in the manufacture of said bread or breadstuffs and the manufactured goods on hand, and shall see that such places are constantly kept and maintained in a clean, wholesome and thoroughly sanitary condition. Nothing herein contained shall be construed to conflict or interfere with the provisions contained in "The Factories Act;"

(j) No underground bakeshop shall be used unless approved by the health officer to be suitable for that purpose; an underground bakeshop shall mean a bakeshop any workroom of which is so situate that the surface of the floor is more than three feet below the sidewalk of the adjoining street, or of the ground adjoining or nearest to the room;

(k) An underground bakeshop shall not be approved as suitable unless the health officer is satisfied that it is suitable as regards construction, light, ventilation, and in all other respects;

(l) Every bakeshop shall be kept at all times in a clean state and free from effluvia arising from any drain, privy, water closet or other nuisance; the floors shall be swept at least every twenty-four hours, and the sweepings shall be immediately placed in an impermeable covered receptacle, and removed from the bakeshop or destroyed by fire at no longer intervals than twenty-four hours;

(n) The working rooms shall be supplied with windows in sufficient number and size to insure a plentiful supply of light and air; the windows must open into the open air and must be arranged so they can be opened for ventilation; every window and outside door shall be fitted with fly screens from the first day of May to the first day of November;

(o) Every workroom shall have an impervious floor constructed of brick, cement or tiles laid in cement, or of wood in which the crevices shall be filled with putty and the whole surface treated with oil varnish; all floors shall be so constructed as to keep out the dampness from the earth beneath, and shall be at all times kept in a good state of repair;

(q) The workmen shall be given opportunity to store away and keep their working clothes in clean places, and shall be provided with a warm and dry place to wash and dress;

(r) Before beginning work and before preparing and mixing the ingredients, the persons engaged in the work shall wash their hands and arms thoroughly in clean water, and for this purpose sufficient wash basins, together with soap and towels, must be provided;

(t) No person shall sit or lie on any of the tables or shelves which are intended for use for the dough or baked articles; chairs and benches in sufficient number shall be provided;

(v) Persons employed in bakeshops shall, while working, wear sufficient clothing.

#### Inspection and Regulation of Slaughter Houses—Sanitation.

Chapter 159.—196. The owner or lessee of any slaughter house shall obtain the written permit of the health officer of the locality in which any such slaughter house is, such permit to state the time for which it is granted, and the same shall be posted or hung in some conspicuous part of the premises.

197. The health officer shall not issue any such permit until he has examined into the sanitary condition and cleanliness of the slaughter house to be used by the applicant and the market where his meat is to be sold or offered for sale, and shall certify that the same comply with the requirements of this Act and any regulations of the board in that behalf.

198. The health officer may at any time revoke or suspend any permit issued by him if upon investigation he shall find the condition of the slaughter house where meat is slaughtered to be in violation of this Act, or the regulations of the board, or detrimental to the public health; which revocation shall continue until such person shall

have fully complied with the requirements of this Act in that behalf hereinbefore contained or any regulations of the board.

199. No building shall be erected or converted into or used as a slaughter house until the plans thereof have been duly submitted to and approved in writing by the health officer, and no building occupied as a slaughter house, or any part thereof, shall be occupied at any time as a dwelling or lodging place; and every such building shall at all times be kept adequately and thoroughly ventilated.

201. All places where animals are slaughtered, the meat of which is intended for human consumption, shall be subject to inspection by the health officer, or any person authorized by him, and shall conform to the following conditions, namely: They shall be used solely for that purpose, shall have floors and walls of such construction and material as shall be impervious to soakage, and that can be thoroughly washed and cleaned after being used; tanks or receptacles shall be provided to receive the blood and the water used after slaughter, and such receptacles shall be kept so that no access can be had to them by anyone outside, and so that they shall not cause or create any nuisance; be so constructed that no nuisance can arise during the process of killing or dressing, and shall have separate lairs or resting places for animals previous to slaughter, and shall have an abundant supply of pure water.

202. All floors of premises where any meat, refuse, offal, fertilizer, or any other materials derived directly or indirectly from slaughtering animals, are treated or handled, shall, if possible, be made of concrete and faced with cement and be made water-tight, properly drained, and the walls of the killing, meat dressing and cooling rooms shall be covered to a height of six feet above the floor with some non-absorbent material.

203. All floors in slaughter houses shall be thoroughly washed off each day after the slaughtering is completed, and all walls and exposed surfaces on the inside of slaughter houses shall be cleaned by washing or scraping as often as once in each month.

204. All woodwork of such premises, except the doors and counters, must be painted or whitewashed, and all inside walls and exposed surfaces, if they are not painted, shall be calcimined or whitewashed at least once in each month.

205. All cooling and other rooms used for storage of meat shall be well ventilated.

208. All slaughter houses shall have an abundant supply of water from a well, or other source of supply, which is not contaminated from the slaughter house or surrounding pens or enclosures or any part of the premises.

209. The yards of such premises, other than where cattle are kept, shall be cemented, paved or floored so as not to absorb liquid filth and be so graded as to permit the same to flow into any sewer opening.

214. No person, firm or corporation shall use any packing house or slaughter house, or any place which is occupied for the purpose of slaughtering or rendering cattle, sheep or hogs, or dressing, cleaning, canning, treating or preparing for shipment, meats and other food stuffs by hand or machinery, for housing, sheltering or harbouring its employees or other persons, or cause or permit same to be used as sleeping quarters or living apartments by such employees or other persons. Any such house or place so used or occupied for sleeping or living purposes is hereby declared to be a nuisance.

#### Inspection and Regulation of Laundries—Sanitation.

Chapter 159.—218. All applicants for a municipal license to conduct a laundry shall obtain from the health officer a certificate that the premises in which it is supposed to carry on such business are suitable and satisfactory for the purpose, and until such certificate is issued no license shall issue in respect of any such place.

219. The following provisions, if provided by the by-laws of any municipality, shall apply to all such premises:—

(a) There shall be a proper and sufficient number of water-closets, sinks and lavatories as may be required by municipal by-laws, and the same shall be installed in a manner satisfactory to the health officer, and shall be adequately lighted and ventilated;

(b) The sanitary conveniences in such places shall be under cover and so partitioned off as to insure privacy, and, if for the use of females, shall have proper doors and fastenings, they shall be so arranged and maintained as to be conveniently accessible to all persons employed therein at all times during their employment;

(c) Where persons of both sexes are employed, the conveniences for each shall be so placed or so screened that the interior shall not be visible (even when the door of the convenience is open) from any place where persons of the other sex have to work or pass, and, if the conveniences for one sex adjoin those for the other sex, the approaches shall be separate;

(d) All laundry tubs shall be properly trapped, vented and sewer connected if possible.

(e) The premises throughout shall be maintained at all times in a thorough state of repair, in a scrupulously clean condition and free from vermin.

(f) Every laundry shall be efficiently lighted and shall be so ventilated as to render harmless all gases and dust;

(g) The workrooms shall be supplied with windows of sufficient number and size to ensure a plenteous supply of light and air; the windows shall open into the open air and must be arranged so that they can be opened for ventilation;

(j) The walls of the workrooms shall not be papered, but shall be painted, varnished or of smooth surface, so as to be easily cleaned;

(k) The floors of all washrooms shall be rendered impervious to water;

(l) The walls of washrooms must be rendered impervious to a height of six inches above the floor, except at doorways, so that said floors can be flushed or washed out without leaking; if wash tubs are against the walls, the walls behind same shall be rendered impervious to a height of eighteen inches above the top of the washtubs;

(m) If the building is not used for laundry purposes exclusively, the rooms used for cooking and sleeping shall be entirely separate from the work rooms; no person shall at any time occupy or permit others to occupy any workroom for a sleeping or living room;

(o) No person suffering from, or who has recently suffered from or been in contact with, any case of infectious or communicable disease shall be permitted to work in any laundry;

(q) No proprietor, manager or employee of any laundry shall knowingly receive from or remove any clothing from any premises where there exists or has recently existed a case of infectious or communicable disease.

(2) All municipal licenses may be issued and continued conditionally on the foregoing provisions being strictly observed throughout the period for which a license is granted.

#### Protection of Employees on Public Utilities—Accidents on Public Utilities.

[Chapter 166, The Public Utilities Act, empowers the Lieutenant-Governor in Council to appoint a commissioner to be called "The Public Utilities Commissioner." The powers of the Commission as set forth in sections 23 and 27 include the following:—]

23. (f) To impose and enforce regulations for the safety and protection of employees of any public utility;

(g) to impose and enforce regulations in case of accidents, howsoever happening, in or about a public utility or the operation thereof, and for the remedying of the cause thereof and prevention of recurrence;

27. The Commission shall have power, after hearing, upon notice, by order in writing, to require every public utility as herein defined,—

(g) To give such notice to the commission as the commissioner may by order require of any and all accidents which may occur within this province upon the property of any public utility as herein defined or directly or indirectly arising from or connected with its maintenance or operation, and to investigate any such accident, and the commissioner may make such order or recommendation with respect thereto as in his judgment may be just and reasonable.

#### Railways—Definition of Terms.

Chapter 168.—2. In this Act, unless the context otherwise requires,—

(a) the expression "the special Act" means any Act authorizing the construction of a railway and with which this Act is incorporated, and includes "The Railway Companies Incorporation Act";

3. The following words and expressions, both in this and the special Act, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such a construction, that is to say,—

(e) the expression "highways" shall mean all public roads, streets, lanes and other public ways and communications;

(h) the expression "the company" shall mean the company or party authorized by the special Act to construct the railway;

(i) the expression "the railway" shall mean the railway and works by the special Act authorized to be constructed.

#### Railways—Application of Act.

Chapter 168.—4. Where not otherwise expressed, this Act shall apply to every railway which is subject to the legislative authority of the Legislature of this province, or is authorized to be constructed by any special Act passed after this Act takes effect or since the twenty-fifth day of May, 1881, and this Act shall be incorporated with every

such special Act; and all the sections and provisions of this Act, unless they are expressly varied or excepted by any such special Act, shall apply to the undertaking authorized thereby, so far as applicable to the undertaking, and shall, as well as the sections and provisions of every other Act incorporated with such special Act, form part of said special Act, and be construed together therewith as forming one Act.

5. Every special railway Act shall be a public Act, and for the purpose of incorporating this Act or any of its provisions with a special Act, it shall be sufficient in such Act to enact that the sections of this Act, with respect to the matter so proposed to be incorporated referring to the same in the word or words at the head of and introductory to the enactment with respect to such matter, shall be incorporated with such special Act, and thereupon all sections and provisions of this Act, with respect to the matter so incorporated, shall, save in so far as they are expressly varied or excepted by such special Act, form part thereof; and such special Act shall be construed as if the substance of such sections and provisions were set forth therein with reference to the matter to which such special Act relates.

#### **Railway Employees to wear Badges.**

Chapter 168.—103. Every servant of the undertaking employed in a passenger train or at a station for passengers shall wear upon his hat or cap a badge which shall indicate his office, and he shall not, without such badge, be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office or meddle or interfere with any passenger or his baggage or property.

#### **Negligence of Railway Employees.**

Chapter 168.—110. Every locomotive engine shall be furnished with a bell of at least thirty pounds in weight, or with a steam whistle.

111. The bell shall be rung or the whistle sounded at the distance of at least eighty rods from every place where the railway crosses any highway, and be kept ringing or be sounded at short intervals until the engine has crossed such highway, under the penalty of eight dollars for every neglect thereof, to be paid by the company, which shall also be liable for all damages sustained by any person by reason of such neglect; one-half of such penalty and damages shall be chargeable to and collected by the company from the engineer having charge of such engine and neglecting to sound the whistle or ring the bell as aforesaid.

#### **Transportation of Explosives.**

[Chapter 168, sections 114 and 115, regulates the transportation of explosives on railways.]

#### **Qualifications of Railway Employees.**

Chapter 168 with amendment.—115a. No person shall serve or be employed by a railway or company as a locomotive engineer of a railway operated by steam unless such person shall have previously served as a locomotive fireman for at least three years upon a railway coming within or outside of the provisions of this Act and who prior to such service or employment fails to produce his certificate or certificates evidencing his length of service as aforesaid and further indicating that such person is a fit and proper person having regard to his habits, intelligence and physical ability to safely and satisfactorily perform the duties of a locomotive engineer. 1915, c. 58, s. 1, part.

115b. Any person, railway or company violating the provisions of the last preceding section shall be liable to a penalty of not less than ten dollars or more than fifty dollars. In all such proceedings the onus of proof that such provisions have not been violated shall be upon the person, railway or company charged with offence. 1915, c. 58, s. 1, part.

#### **Railways—Suits for Damages.**

Chapter 168.—116. All suits for indemnity for any damage or injury sustained by reason of the construction or operation of the railway shall be instituted within twelve months next after the time of such supposed damage sustained or, if there be continuation of damages, then within twelve months next after the doing or committing of such damage ceases, and not afterwards; and the defendants may plead the general issue and give this Act and the special Act and the special matter in evidence at any trial to be had thereupon, and may prove that the same was done in pursuance of and by authority of this Act and the special Act.

### Operation of Railways by Provincial Government—Negligence of Employees— Transportation of Explosives, etc.

[Chapter 169 provides for the organization of the Department of the Railway Commissioner, which is to administer all railways controlled in any way by the Government of Manitoba. The Railway Commissioner is empowered to construct and operate such railways within the province as are determined on by the Lieutenant-Governor in Council. Sections 29, 35, 36, 40, 41 and 47 provide for the operation of trains upon such railways, the liability of the department and its employees for negligence, the transportation of explosives, and the passing of regulations by the Lieutenant-Governor in Council.]

29. There shall be provided and used in and upon trains run for the conveyance of passengers such known apparatus and arrangements as best affords good and sufficient means of immediate communication between the conductors and the engine driver of such trains while the trains are in motion, and good and sufficient means of applying by the power of the steam engine or otherwise, at the will of the engine-driver or other person appointed to such duty, the brakes to the wheels of the locomotive or tender, or both, or of all or any of the cars or carriages composing the train, and of disconnecting the locomotive, tender and cars or carriages from each other and by any such power or means, and also such apparatus and arrangements as best and most securely place and fix the seats or chairs in the cars or carriages.

35. The department shall not be relieved from liability by any notice, condition or declaration, in case of any damage arising from any negligence, omission or default of any officer, employee or servant of the department; nor shall any officer, employee or servant be relieved from liability by any notice, condition or declaration, if the damage arise from his negligence or omission.

36. The baggage, freight, merchandise or lumber cars shall not be placed in rear of the passenger cars; and if any such be so placed, the officer or agent directing or knowingly suffering such arrangement, and the conductor of the train, shall be subject to the provisions of any railway Act of the Parliament of Canada which declares such conduct a misdemeanor, and shall be punishable accordingly.

[Sections 40 and 41 deal with the transportation of explosives on railways operated by the department of the Railway Commissioner.]

47. The Lieutenant-Governor in Council may from time to time make such rules and regulations as may be deemed necessary for the management, proper use and protection of said railways and the station houses, yards and other property in connection therewith, and for ascertaining and collecting tolls, dues and revenues thereon, and to be observed by conductors, engine-drivers and other officers and servants of the department and by all companies and persons using the said railways, and relating to the construction of the carriages or other vehicles to be used in the trains on such railways.

### Mercantile Establishments—Hours of Labour—Employment of Women and Children.

Chapter 180.—1. This Act may be cited as The Shops Regulation Act.

#### Interpretation.

2. In the sixteen next following sections, and in any by-law passed under the provisions thereof, unless the context otherwise requires,—

(a) the expression "shop" means any barber shop or any building or portion of a building, booth, stall or place where goods are exposed or offered for sale by retail, but not where the only trade or business carried on is that of a tobacconist, news-agent, hotel, inn, tavern, victualling house or refreshment house, nor any premises wherein, under license, spirituous or fermented liquors are sold by retail for consumption on the premises, and for the purposes of this Act sale by retail shall be deemed to include sale by auction;

(b) the expression "closed" means not open for the serving of any customer;

(c) the expression "municipality" means the city, town, village or rural municipality, the municipal council whereof, either upon application made in that behalf or otherwise, passes any by-law under the provisions of this Act;

(d) the expression "municipal" relates to any municipality.

#### Hours of Closing Shops.

3. Any municipal council may, by by-law, require that, during the whole or any part or parts of the year, all or any class or classes of shops within the municipality or any portion of the municipality, if a rural municipality, shall be closed, and remain closed on each or any day of the week at and during any time or hours between six of the clock in the afternoon of any day and five of the clock in the forenoon of the next following day.

4. Any municipal council having passed any by-law, in pursuance of the provisions of this Act, may from time to time, by by-law, amend the said by-law, changing the hours when the said shops shall be closed and remain closed, and substituting other hours in the place and stead of the hours mentioned in the by-law, and may repeal any by-laws passed, and may pass any new by-law for closing the said shops or any other shops, either with or without any petition therefor being presented to the council.

5. If any application be received by or presented to a municipal council, praying for the passing of a by-law requiring the closing of any class or classes of shops situate within the municipality, or any portion of the municipality, if a rural municipality, and the council be satisfied that such application is signed by not less than three-fourths in number of the occupiers of shops within the municipality, or any portion thereof, if a rural municipality, and belonging to the class or each of the classes to which such application relates, the council shall within one month after the receipt or presentation of such application, pass a by-law giving effect to the said application and requiring all shops within the municipality, or any portion thereof, if a rural municipality, belonging to the class or classes specified in the application, to be closed during the period of the year and at the times and hours mentioned in that behalf in the application.

6. The council, in estimating such number of occupiers of shops belonging to the class to which such application relates, shall take into consideration such shops only as are within the meaning of paragraph (a) of section 2.

7. A municipal council may by by-law make regulations as to the form of any application to be made under the preceding sections, and as to the evidence to be produced respecting the proportion of persons signing such application, and as to the classification of shops for the purposes of the preceding sections; and it shall not be compulsory upon a council to pass a by-law under said sections unless and until all such regulations with respect to the application therefor have been duly observed.

8. If the application mentioned in the next preceding three sections be delivered to the clerk of a council, it shall be deemed to have been presented to and received by the council within the meaning of said sections.

9. Every such by-law shall take effect at a date named therein, being not less than one or more than two weeks after the passing thereof, and shall before that date be published in such manner as to the council may appear best fitted to ensure the publicity thereof.

10. A shop in which trades of two or more classes are carried on shall be closed for the purpose of all such trades at the hour at which it is by any such by-law required to be closed for the purpose of that one of such trades which is the principal trade carried on in said shop.

11. No pharmaceutical chemist, or chemist and druggist, nor any of his employees, shall be liable to any fine, penalty or punishment under any such by-law for supplying medicines, drugs or medical appliances, or selling any goods usually sold or kept for sale by pharmaceutical chemists, or chemists and druggists, subject to the limitations in this section hereinafter provided, nor shall any occupier of or person employed in or about a shop in any village be liable to any fine, penalty or punishment, under any such by-law, for supplying medicines, drugs, or medical appliances, after the hour appointed by any such by-law for the closing of shops; but should it appear to any council at any time that such druggists are taking advantage of the provisions of this section to sell, after the prescribed hour for closing, any line of goods which is, in the opinion of any such council, not properly within the class of goods usually sold by druggists, such council may pass a by-law specifically stating that any particular line or class of goods shall not be sold in any drug shop after the prescribed hour for closing, and such by-law may then be enforced and any infraction thereof punished notwithstanding anything contained in this section.

12. Nothing in any such by-law as is referred to in the preceding sections, shall render the occupier of any premises liable to any fine, penalty or punishment for supplying any article to any person lodging in such premises, or for supplying any article required for immediate use by reason or because of any emergency arising from sickness, ailment, or death; but nothing herein contained shall be deemed to authorize any person whomsoever to keep open shop after the hour appointed by such by-law for the closing of shops.

13. Where an offence for which the occupier of a shop is liable under any such by-law to any fine, penalty or punishment has in fact been committed by some agent or servant of such occupier, such agent or servant shall be liable to the same fine, penalty or punishment as if he were the occupier.

14. Where the occupier of a shop is charged with an offence against any such by-law, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the said occupier proves to the satisfaction of the court that he has used due diligence to

enforce the execution of the provisions of the by-law, and that the said other person committed the offence in question without his knowledge, consent or connivance, or wilful neglect or default, the said occupier shall be exempt from any fine, penalty or punishment; but the said other person shall thereupon be summarily convicted of such offence, and shall be liable to the same fine, penalty or punishment therefor as if he were the occupier.

15. Subject to the provisions in the preceding sections contained, any by-law passed by a municipal council under the authority of this Act shall, for all purposes whatsoever, be deemed and taken to have been passed under and by authority of "The Municipal Act" and as if the preceding sections of this Act had formed part of "The Municipal Act," and the preceding sections of this Act and "The Municipal Act" shall be read and construed together as if forming one Act.

16. Nothing in the preceding sections of this Act or in any by-law passed under authority thereof shall be deemed to render unlawful the continuance in a shop, after the hour appointed for closing thereof, of any customers who were in the shop immediately before that hour, or the serving of such customers during their continuance therein.

17. Notwithstanding that the occupiers of any class of shops required to be closed by a by-law, passed or purporting to be passed, under or pursuant to the provisions of section 5, may not have presented an application, as required by said section for the passing of such by-law, every such by-law shall, nevertheless, and to all intents and for all purposes, be held and deemed to be valid and effectual as respects any other, and the occupiers of any other class of shops thereby required to be closed in conformity with any application in that behalf made or presented to the council by the requisite number of occupiers of said last mentioned class of shops.

18. The onus of proving that an application in compliance with section 5 had not been presented to a municipal council by the requisite number of the occupiers of any class of shops required to be closed by a by-law passed, or purporting to be passed, under or pursuant to the provisions hereof, shall, in all cases and for all purposes, be upon the person asserting that such application had not been so presented.

[The second part of this chapter, sections 19 to 28 inclusive, which deals with the hours of labour of young persons in shops and the furnishing of seats for female employees, is replaced by new and more comprehensive provisions regarding the regulation and inspection of mercantile establishments and the employment of women and children therein enacted by 1916, chapter 100.]

### Inspection of Steam Boilers.

[Chapter 185, The Steam Boilers Inspection Act, which provides for the inspection and regulation of steam boilers, is replaced by 1916, chapter 103.]

### Protection of Thresher Employees' Wages.

Chapter 197 with amendment.—10. Every farmer shall, to the extent of the amount earned by the thresher in the threshing of his grain, be liable for the wages due to every workman for the time put in by him on the farmer's threshing, and for the cost of repairs done during that threshing season, provided that the workman or repairer do, within ten days after the threshing machine is removed from the farmer's premises, give notice in writing to the farmer stating the amount due in respect of such wages or repairs, as the case may be, and, in default of payment of such amount by the farmer or the thresher, the farmer may be proceeded against for such amount by action in any court of competent jurisdiction, and in addition he may be proceeded against by the workman in respect of the wages due him under "The Masters' and Servants' Act," which is hereby declared to be applicable to any such proceedings.

(2) Any payment by the farmer of any such claim for wages or repairs shall, if the same were properly due and owing at the time of payment, be credited by the thresher in reduction for his claim against the farmer.

(3) No transfer of the ownership or right to possession of the threshing machine, nor any assignment of the earnings thereof, nor any attachment of such earnings by garnishing order, nor any other claim of any kind or description, shall prevail against the claim of a workman or repairer, but the claim of a workman shall prevail over that of a repairer.

(4) Unless a workman or repairer takes proceedings to enforce his claim against a farmer within twenty days after he has given such notice as aforesaid he shall be deemed to have abandoned the same and shall cease to have any claim against the farmer.

(5) The thresher shall not be entitled to commence an action for the amount of his claim against the farmer until after the expiration of the said period of ten days without first producing to the farmer evidence that there is no such unpaid claim for wages



or repairs, or offering to deduct from his account the amount of any unpaid claim or claims.

(6) No garnishing or attaching order issued out of any court, and no assignment to the earnings of the thresher, shall have any effect to bind such earnings in the hands of the farmer or to prevent him from paying the same to the thresher, unless the amount of such earnings shall exceed the total amount of the wages of the men employed by such thresher, whether paid or unpaid by him, and the costs of repairs to the threshing outfit made within ten months prior to the commencement of such threshing, and then only to the extent of any such excess, but this sub-section shall not protect any such earnings from being bound or attached by garnishing orders or actions to recover any unpaid wages of the men employed by the thresher in doing the work or amounts due for the hire of teams and men engaged therein. 1913-14, c. 120, s. 1.

#### Interpleader.

11. If there be a dispute as to the amount payable for wages as aforesaid to any workman or workmen, or if the total amount of workmen's claims, notice of which has been so received by the farmer, exceeds the amount earned by the thresher, the amount claimed in such notice or notices up to the total sum earned by the thresher may be paid into the county court in the judicial division in which said threshing was done, and at the time of paying said money into court the person so paying in shall notify the clerk of the name of the thresher and of the names of the workmen who have served him with notice under this Act, whereupon any of the said workmen may sue out an interpleader summons in the form in the schedule to this Act to determine, adjust and finally settle the rights of the said several parties to the money so paid into court, and in such proceedings between the workman and the thresher the former shall be plaintiff and the latter defendant, and all proceedings under "The Masters' and Servants' Act" shall thereupon be stayed and the costs of the proceedings both in the county court and under the provisions of "The Masters' and Servants' Act" shall be in the discretion of the county court judge.

12. Any number of such workmen may join in said interpleader proceedings, and, if there is not sufficient money in court to satisfy all their claims, the same shall be distributed *pari passu* according to their respective claims, subject to an order of the court as to costs.

13. In the event of such interpleader proceedings not being taken within thirty days after the money has been paid into court, the said money shall on *præcipe* be paid out to the thresher or to whomsoever he may order or assign said money.

#### General Provisions.

14. Every person owning or operating a threshing machine in this province shall, upon demand of any of the workmen assisting in the operating of such machine, at any time furnish to such workman forthwith a written statement of the length of time for which such workman is entitled at the time of such demand to be paid for such work and of the amount earned by him for such work up to that time, which written statement shall be signed by such owner or operator or by his foreman or agent acting for him; and, if such owner or operator or his foreman or agent shall refuse or neglect to furnish such written statement on demand, he shall be liable to a penalty of five dollars for every day during which such statement is withheld.

15. A copy of this Act, furnished by the King's Printer, shall be kept affixed to every threshing machine while being operated anywhere in this province. It shall be the duty of the person in charge of the operating of such machine to see that this section is observed, and every such person who wilfully neglects such duty shall be liable to a fine not exceeding ten dollars, and any person who wilfully defaces or destroys the copy of this Act so affixed to such machine shall be liable to a fine not exceeding ten dollars.

(Schedule omitted.)

#### Wages as Preferred Claims—In Liquidations.

Chapter 205.—11. In distributing the assets of a company under the provisions of this Act, the liquidator shall pay in priority to the claims of the ordinary or general creditors of the company the wages or salary of all persons other than directors in the employment of the company at the time of the making of the winding up resolution or order, or within one month before the making thereof, not exceeding three months' wages or salary, and such persons shall be entitled to rank as ordinary or general creditors of the company for the residue, if any, of their claims.

**Woodmen's Liens.**

Chapter 208.—This Act may be cited as The Woodmen's Lien for Services Act.

**Interpretation.**

2. In this Act, unless the context otherwise requires,—

(a) the expression "logs and timber" means and includes logs, timber, telegraph poles, railway ties, shingle bolts or staves, or any of them, and fence posts and cordwood while lying piled for shipment by rail or water;

(b) the expression "labour," "service," or "services" means and includes cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting or booming any logs or timber, and any work done by cooks, blacksmiths, artisans, and others usually employed in connection therewith;

(c) the expression "person" in section 3 shall be interpreted to include cooks, blacksmiths, artisans and all others usually employed in connection with such labour, service or services;

(d) the expression "judge" means a judge of any of the County Courts in this province, or any deputy lawfully acting for him.

**How Lien Arises and When Same Attaches.**

3. Any person performing any labour, service or services in connection with any logs or timber within this province shall have a lien thereon for the amount due, not exceeding the sum of two hundred and fifty dollars, for such labour, service or services, and the same shall be deemed a first lien or charge on such logs or timber, and shall have precedence of all other claims or liens thereon, except any lien or claim which the Crown may have upon such logs or timber for or in respect of any dues or charges.

4. The said lien shall not attach or remain a charge on the logs or timber, unless and until a statement thereof in writing verified upon oath by the person claiming such lien, or someone duly authorized on his behalf, and bearing endorsed thereon the name and post office address of the claimant's attorney, shall be filed in the office of the Clerk of the County Court of the judicial division in which the labour or services or some part thereof has been performed:

Provided that, when such labour or services have been performed upon any logs or timber got out to be run down or run down any of the rivers or streams, within or partly within the province, such statement may, at the option of the claimant, be filed in the office of the Clerk of the County Court of the judicial division wherein the drive terminates or reaches its destination.

5. Such statement shall set out briefly the nature of the debt, demand or claim, the amount due to the claimant, as near as may be, over and above all legal set-offs or counter claims and a description of the logs or timber upon or against which the lien is claimed, and may be in the form set out in schedule A to this Act or to the like effect.

6. If such labour, service or services be done between the first day of October and the first day of April next thereafter, the statement of claim shall be filed on or before the twentieth day of April next thereafter; but if such labour or services be done or performed on or after the first day of April, and before the first day of October in any year, then such statement shall be filed within twenty days after the last day such labour or services were performed:

Provided that no mortgage, sale or transfer of the logs or timber upon which a lien is claimed under this Act during the time limited for the filing of such statement of claim and previous to the filing thereof, or after the filing thereof and during the time limited for the enforcement thereof, shall in anywise affect such lien, but such lien shall remain and be in force against such logs or timber in whosoever possession the same shall be found.

**Enforcement of Lien.**

7. Any person having a lien upon or against any logs or timber under this Act may enforce the same by suit in the County Court within whose jurisdiction the said logs or timber or any part thereof, may be situated at the time of the commencement of the suit; and such suit may be commenced to enforce such liens, if the same be due, immediately after the filing of such statement, or, if credit has been given, immediately after the expiry of the period of credit; and such lien shall cease to be a lien upon the property named in such statement, unless the proceedings to enforce the same to be commenced within thirty days after the filing of the statement of the claim or after the expiry of the period of credit. In all such suits the person, company or corporation liable for the payment of such debt or claim shall be made the party defendant.

(2) There shall be attached to or endorsed upon the writ of summons a copy of the lien claim filed as hereinbefore provided, and no other statement of claim shall be necessary unless ordered by the judge, and no pleadings or notices of dispute or defence other than such as are required in a suit or proceeding in the County Court

shall be necessary. If no dispute notice is filed, judgment may be signed and execution issued according to the practice of the County Court. The judge may order any particulars to be given or any proper or necessary amendments to be made, or may add or strike out the names of parties at any time, and may set aside judgment and permit a defence or dispute notice to be entered or filed on such terms as to him shall appear proper. The writ shall be in the form of that in use in the County Courts, and the practice shall follow as nearly as may be that of the County Courts. Writs may be served anywhere in the Province in the same manner as in other cases, and the judgment shall declare that the same is for labour or services, the amount thereof and costs, and that the plaintiff has a lien therefor on the property described when such is the case.

(3) Where an execution has issued and has been placed in the bailiff's hands for execution, and no attachment has been issued, the proceedings for the enforcement of the lien shall be by sale under the execution, and the proceedings relating to proof of other claims and the payment of money into court and the distribution of money and otherwise shall, as far as practicable, be the same as are hereinafter provided for proceedings upon, and subsequent to, an attachment.

(4) Where an attachment issues in the first instance, the statement of claim and defence and proceedings to judgment may be the same as hereinbefore provided where a suit has been begun by writ of summons; and where an attachment issues after proceedings have been begun by writ of summons the proceedings shall continue and be carried to judgment under the writ of summons, except such as are necessary to be taken under the attachment.

(5) In any case, whether commenced by a writ of summons or attachment, the judge may direct that the same shall be disposed of summarily by him in chambers without waiting for the regular sittings of the court, upon such terms as to notice and otherwise as the order shall provide, and the same may be so heard and disposed of.

(6) The judge may also entertain in chambers any application to set aside an attachment or seizure, or to release logs or timber that have been seized, and may summarily dispose of the same.

8. Where the amount of any claim filed as aforesaid is not less than ten dollars, upon the production and filing of a copy of said claim and affidavit, and of an affidavit made and sworn by the claimant of the amount of the claim due and owing, and showing that the same has been filed as aforesaid, and stating that,—

(a) he has good reason to believe and does believe that the logs or timber are about being removed out of the Province, or

(b) that the person indebted for the amount of such lien has absconded from the Province with intent to defraud or defeat his creditors, or

(c) that the logs or timber are about being cut into lumber or other timber, so that the same cannot be identified, and

(d) that he is in danger of losing his said claim if an attachment do not issue; then if affidavits corroborating the affidavit of the plaintiff in respect of paragraphs (a),

(b) or (c) of this section be also filed, the clerk of the proper County Court shall issue a writ of attachment as in the case of attachment under "The County Courts Act," directed to the bailiff of such court, commanding such bailiff to attach, seize, take and safely keep such logs or timber, or a sufficient portion thereof to secure the sum mentioned in the said writ, and the costs of the suit and of the proceedings to enforce the lien, and to return the writ forthwith to the court out of which the same issued.

9. Where additional claims are made or the amount of claim is increased or a sufficient seizure has not been made, a second or subsequent seizure may be made either under execution or attachment.

10. The said writ of attachment shall also, where no writ of summons has issued, summon the defendant to appear before the County Court out of which the attachment has issued, and a copy of the writ of attachment shall be served upon the defendant, and, if the defendant in such attachment is not the owner of the logs or timber described in the writ of attachment, then a copy of the writ shall also be served upon such owner, or upon the agent or person in whose possession, custody or control they may be found for him. The owner may on his own application, or by direction of a judge, be made a party defendant at the trial.

(2) Where the service has not been personal upon either the defendant or owner, and where a proper defence has not been made, the judge may in his discretion admit them or either of them to make full defence and may make such order in the premises as may be reasonable and just to all parties.

11. No bailiff shall seize upon or detain any logs or timber under the provisions of this Act when in transit, by water, from the place where cut to the place of destination.

12. In case of an attachment, if the owner of said logs or timber, or any person in his behalf, shall execute and file with the clerk of the court out of which the attach-

ment has issued a good and sufficient bond to the person claiming the lien, executed by two sureties and approved by the said clerk and conditioned for the payment of all claims, damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings, together with the amount for which a lien is claimed in any other suit, if any, the clerk shall issue an order to the bailiff having in charge the logs or timber directing their release; and, upon service of such order upon the bailiff, he shall release the same.

13. Any person served with a copy of the writ of attachment under this Act who may desire to dispute the same, shall, within ten days after such service, enter in the court in which proceedings are pending a notice that he disputes the claim upon the lien in whole or in part.

14. If no notice of dispute be entered under the last preceding section, judgment may be entered as in the case of default, and the practice or procedure may be the same as in a suit begun by a writ of summons.

15. The defendant may, at any time after service of the writ of attachment and before the sale of logs or timber, pay into court the amount for which a lien is claimed in the suit, together with the amount for which a lien is claimed in any other suit (if any) and the costs of the proceedings thereon to the date of such payment taxed by the clerk of the court if so required, and thereupon he shall be entitled to a certificate vacating such lien; and upon said certificate being filed with the clerk of the County Court in which the original statement of claim was filed, the said lien shall be vacated and all further proceedings thereon shall cease and the person making such payment shall further be entitled to an order directing the delivery up of the logs or timber seized under the attachment or the cancellation of any bond given under section 12.

16. After the expiration of the time hereinbefore named within which notice of dispute may be entered, the judge shall, in chambers, as provided by sub-section (5) of section 7, or at the next sitting of the court, after due notice to all parties to the suit and to all persons claiming liens on the logs or timber, and whose liens are duly filed as aforesaid, or to their attorneys, hear all such parties and claimants, and take all accounts necessary to determine the amounts, if any, due to them or any of them, or to any other holders of liens who may be called by the judge to prove their liens, and shall tax to them their costs and determine by whom the same shall be payable and settle their priorities and generally determine all such matters as may be necessary for the adjustment of the rights of the several parties.

17. At the conclusion of the inquiry the judge shall make his report and order, which shall state his findings, and direct the payment into the court in which proceedings are pending of the amounts, if any, so found due and the costs, within eight days thereafter, and, in default of such payment, that the logs or timber shall be sold by the bailiff for the satisfaction of the amounts found due to the several parties upon the inquiry and costs.

18. In default of payment into court under the last preceding section within the time named in the order therefor, the said logs or timber shall, within twenty days thereafter, be sold by the bailiff holding the same, in the same manner and subject to the same provisions of law as goods and chattels seized or taken in execution, unless the judge shall direct that additional publicity be given to the sale; and the amount realized by such sale shall, after deducting the expenses thereof payable to the bailiff, be paid into the court in which the proceedings are pending, and shall, upon the application of the several parties found to be entitled thereto under the order of the judge, be paid out to them by the clerk of the said court:

Provided that where the amount realized upon the sale shall not be sufficient to pay the claims in full and costs, the judge shall apportion the amount realized *pro rata* among the different claimants.

19. If, after such sale and distribution of the proceeds thereof under the preceding section, any balance shall remain due to any person under the said order of the judge, the clerk of the court shall, upon the application of such person, give to him a certificate that such amount remains due, which certificate may be entered as a judgment in any county court having jurisdiction, against the person or persons by whom the claim was directed to be paid, and execution may be issued thereupon as in the case of other judgments of the county courts.

20. Where nothing shall be found due upon the several claims filed under this Act or upon the lien or liens in respect to which proceedings have been taken, the judge may direct by his said order that the lien or liens be discharged and the logs or timber released or the security given therefor be delivered up and cancelled, and shall also by such order direct payment forthwith of any costs which may be found due to the defendant or owner of the said logs or timber.

21. Where more money is paid into court as the proceeds of the sale of logs or timber than is required to satisfy the liens which have been proved and the interest and costs, the remaining moneys shall be paid over to the party entitled to the same unless the judge otherwise orders.

22. Any person affected by proceedings taken under this Act may apply to the judge to dismiss the same for want of prosecution, and the judge may make such order upon the application as to costs or otherwise as may be just.

(2) The judge may at any stage of such proceedings on application of any party, or as he may see fit, order that any person who may be deemed a necessary party to any such proceedings be added as a party thereto or be served with any process or notice provided for by this Act, and the judge may make such order as to the costs of adding such person or corporation or as to such service as may be just.

23. Nothing in this Act contained shall be deemed to disentitle any person to any other remedy than that afforded by this Act for the recovery of any amount due in respect of labour or services performed upon or in connection with any logs or timber; and where a suit is brought to enforce a lien, but no lien is found to exist, judgment may be directed for the amount found due as in an ordinary case.

24. Any number of lienholders may join in taking proceedings under this Act, or may assign their claims to any one or more persons; but the statement of the claim to be filed under section 4 shall include particular statements of the several claims of persons so joining and shall be verified by the affidavits of such persons so joining, or separate statements of claim may be filed and verified as by this Act provided and one attachment or writ of summons issued on behalf of all the persons so joining.

25. Where suits are brought in more than one county court respecting liens or claims upon the same logs or timber, the procedure, after the issue of the first execution or attachment, shall be had in the county court out of which such execution or attachment first issued, unless the judge shall otherwise order.

26. The forms necessary to be used in any action or proceeding under this Act, the costs to be taxed to any party therein and the procedure regulating the practice in actions brought and other proceedings taken in the county courts under the provisions of this Act shall so far as are not inconsistent with this Act be, as near as may be, according to the forms, tariff of costs and procedure in force under "The County Courts Act," and the powers vested in "The Board of County Judges" under sections 21 and 23 of "The County Courts Act" shall be applicable to this Act.

(Schedule omitted.)

### Workmen's Compensation.

[Chapter 209, The Workmen's Compensation Act, is replaced by 1916, chapter 125.]

## STATUTES OF 1913-14.

### Protection of Employees on Buildings.

Chapter 12.—1. This Act may be cited as The Building Trades Protection Act.

2. In this Act,—

(a) "building" shall include any structure under construction or reconstruction or demolition;

(b) "excavation" shall mean any trench in the ground at a depth of more than five feet;

(c) "inspector" shall mean an inspector appointed by a municipal council or by the Lieutenant-Governor in Council, for the purpose of enforcing the provisions of this Act.

3. The Lieutenant-Governor in Council may appoint inspectors to enforce this Act.

4. (1) Where any inspector appointed under this Act finds that any provision of this Act is being violated in the case of any building or excavation, he may give such orders in writing as may, in his opinion, be required to secure due compliance with such provision, and upon any such order being made and until the same is carried out the work upon that part of the building or excavation in which the default occurs shall be suspended.

(2) Every person to whom the order of the inspector is directed who disobeys, or knowingly permits any person under his direction and control to disobey, any such order, or to carry on work in violation of subsection (1) before the order is carried out, shall incur a penalty not exceeding fifty dollars for every day upon which such default occurs.

5. In the erection, alteration, repair, improvement or demolition of any building, no scaffolding, hoists, stays, ladders, flooring or other mechanical and temporary contrivances shall be used which are unsafe, unsuitable or improper, or which are not so constructed, protected, placed and operated as to afford reasonable safety from accident to persons employed or engaged upon the building or excavation.

6. The following regulations shall be complied with in the erection, alteration, repair, improvement or demolition of every building:—

(1) All scaffolding for bricklayers, plasterers and stone work shall be not less than four feet wide, and protected by guard rail when over twenty feet high; for all other trades shall be not less than two feet wide, except for cornice work, when it shall be subject to width of same, meaning that it shall project two feet outside of member of same.

(2) Where scaffolding or staging is "swung" or suspended from an overhead support it shall be not less than twenty-two inches wide and so secured as to prevent it swaying to and fro.

(3) Where poles are used in scaffolding, the poles shall be securely lashed at every point of contact, and where square timber is used in scaffolding the same shall be securely spiked or bolted at every point of contact.

(4) Where hoists are used for raising materials for use in buildings, the shafts or openings shall be protected at each floor by a barrier not less than three feet nor more than four feet from the level of the floor, and the barrier shall be placed not less than two feet from the edge of the shaft or opening in which the hoist is operated; provided that, upon the level or floor in actual use by such hoist, such barrier shall not be placed across the openings used for entrance or exits to or from such hoists; all other openings shall be protected on line of openings.

(5) No person shall be allowed to ride on or in any hoist used for raising materials for use in buildings under construction; any person violating this subsection shall incur a penalty not exceeding ten dollars for each and every such violation.

(6) All ladders shall extend at least four feet above any scaffold, staging or floor.

(7) No lumber or timber shall be hoisted in a single sling except by proper timber hitch.

7. (1) Where the plans and specifications require the floors to be arched between the beams thereof, or where the floors or filling in between the floors are of fireproof material, the flooring or filling in shall be completed as the building or excavation progresses to not less than within three tiers of beams below that on which the iron work is being erected.

(2) Where the plans and specifications do not require filling in between the beams of floors with fireproof material or brick work, the contractor for the carpenter work, in the course of construction, shall lay the under-flooring of the building on each storey as the building or excavation progresses to not less than within two storeys below the one to which the building has been erected.

(3) Where double doors are not to be used, such contractor shall keep planked over the floor two storeys below the story where the work is being performed.

(4) If the floor beams are of iron or steel, the contractor for the iron or steel work of a building or excavation in course of construction, or the owner of such a building or excavation, shall thoroughly plank over the entire tier of iron or steel beams on which the structural iron or steel work is being erected, except such spaces as may be reasonably required for the proper construction of such iron or steel work, and for the raising or lowering of materials to be used in the construction of such building, and such spaces as may be designated by the plans and specifications for stairways and elevator shafts.

8. In the case of what are known as skeleton steel frame buildings, compliance with the following regulations shall be sufficient, and it shall not be necessary to comply with the requirements of section 7.

(1) As soon as the steel frame of a building is erected to the first column splice above the first floor level, a flooring of two-inch planking shall be laid over floor beams on the floor immediately below the first column splice, making a temporary floor over that part of the area of the building or excavation inside columns at that level, except in places where it is necessary to have openings for the passage of material for building above that point; when erection has reached a point level with the next column splice the planking used as a temporary floor at first column splice shall be removed and placed as before at second splice, and so on to the top of the building.

(2) A flooring of two-inch planking shall be laid down immediately under any derrick for a sufficient space about the derrick to protect workmen on the floors below that on which the derrick is working, and to hold with safety the materials hoisted by the derrick.

(3) Rivetters' staging shall be so constructed as to secure the reasonable safety of the rivetters, and a temporary floor must be provided on the girders and floor beams immediately below the portion of the floor upon which the rivetters are working, sufficient for the protection of workmen engaged below that floor.

(4) The steel work may be carried on in advance of the construction of permanent floors.

9. In cities and towns the following regulations shall be complied with in erecting, altering or repairing any building—

(1) When the work is located on the line of any street or within three feet of the inside line of the sidewalk of any street, before any of the work above the sidewalk or footway is commenced, there shall be erected over the sidewalk or footway of the street a covered passageway or independent structure not less than eight feet high at the lowest side above the level of the sidewalk or footway and of sufficient strength to protect the public using the sidewalk or footway.

(2) If a building or excavation is to be erected or made within seven feet of the inside line of the sidewalk or any street, a strongly constructed close-boarded fence or barricade, not less than six feet high, shall be erected along the inside line of such sidewalk.

(3) No person shall place any stone, brick, lumber or any building material, fence, barricade or temporary sidewalk so as to obstruct the free passage of water in the drains, gutters or water courses; and the roofs of all covered ways shall be kept clear of any material whatever.

(4) All sewers, ditches, drains or any other excavation of whatever nature shall be properly shored up, so as to prevent the caving in of the ground after a depth of five feet has been excavated from the ground level.

(5) If in any employment personal injury by accident is caused to a workman employed in or about a building or excavation, his employer shall immediately give written notice thereof to an inspector under this Act.

(6) Notice of such injury shall give the name and address of the employer, the name of the person injured, and shall state in ordinary language the cause of the injury and the date on which the accident occurred.

(7) The notice may be served by delivering the same at, or sending it by post in a registered letter, to the office or residence of such inspector.

(8) In the event of any accident occurring on any work covered by the provisions of this Act, and such accident being of a serious or fatal nature, no alterations, changes or repairs shall be made to any scaffolding or mechanical appliances connected directly or indirectly with the cause of accident until the inspector under this Act shall have first inspected same.

(9) Every employer who fails to comply with the provisions of this section shall incur a penalty not exceeding fifty dollars.

10. "The Manitoba Summary Convictions Act" shall apply to every prosecution under this Act.

11. Sections 7, 8 and 9 of this Act shall not apply to any building not more than two storeys in height or to any excavation less than five feet deep, nor to any farm building or excavation, nor to any work being done upon a building or excavation by the owner or occupant thereof in person.

12. Nothing in this Act contained shall in any way decrease or lessen the liability or obligations of any person or corporation under "The Workmen's Compensation Act," Revised Statutes of Manitoba, 1913.

13. The provisions of this Act shall be read and applied as supplementary to the by-laws of every municipality in this province, where such exists, but, where no by-law has been passed dealing with the matters covered by this Act, then the provisions herein shall apply.

14. Chapter 22 of the Revised Statutes of Manitoba, 1913, is hereby repealed.

15. This Act shall come into force on the day it is assented to.

#### Employment of Children—School Attendance.

[Chapter 19 amends The Children's Act, Revised Statutes, 1913, chapter 30, by enacting certain sections respecting school attendance of children between the ages of seven and fourteen years, and prohibiting the employment of children under fourteen years, during school hours. These sections, however, are repealed by chapter 18, 1916, and chapter 97 of the same year, The School Attendance Act, makes new provisions regarding these subjects. These provisions as set forth in sections 2, 5-8, and 20 are as follows:—]

2. In every school district in the province of Manitoba every child over the age of seven and under the age of fourteen years, shall attend school for the full term during which the school or schools of the district in which such child resides is or are open each year, unless excused for any of the reasons and in the manner hereinafter mentioned, and if the parent or guardian having legal charge of any child shall fail to send such child to school regularly for the said full term, or if any child is absent from school unless excused for any of the reasons and in the manner hereinafter mentioned, the parent or guardian of such child shall be subject to the penalties of this Act.

(a) Provided that any child over the age of fourteen years who enrolls in any elementary or secondary school established under the provisions of "The Public



Schools Act," must attend regularly while enrolled as a pupil in such school and during such enrollment shall be under the jurisdiction of the school attendance officer or officers. 1916, c. 97, s. 2.

5. No parent, guardian or other person shall be liable to any of the penalties of this Act in respect of any child if

(a) such child is in regular attendance at a private school in respect of which a report has been made within one year previous under the last preceding section, that such private school affords an education equal to the standard of the public schools of this province; or

(b) he produces a certificate of a school inspector that in his opinion the child is being educated at home or elsewhere in a manner equal to the standard of the public schools of this province, but such certificates shall not be accepted by the court if dated over one year prior to the date of any complaint laid under this Act; or

(c) The child is unable to attend school by reason of sickness or other unavoidable cause; or

(d) The child has been excused, as hereinafter provided, from attending school by the principal of the school which such child ought to attend, or by a justice of the peace, or by a police magistrate; or

(e) The child has passed the examination for entrance to the high schools as prescribed by the Advisory Board of the Department of Education, or otherwise attained equivalent standing; or

(f) there is not sufficient school accommodation in the district in which the child resides; or

(g) there is no school open which the child can attend within a distance of two miles, measured according to the nearest passable road from the child's residence, if he is under ten years of age, or within three miles if he is over ten years of age, provided that, in the case of districts conveying children in accordance with sections 93, 95, 122 and 130 of "The Public Schools Act," this limitation as to distance shall not apply. 1916, c. 97, s. 5.

6. Subject to the provisions of the following sections no child under the age of fourteen years in any school district shall be employed by any person during school hours while the public school of the district in which the child resides is in session, and any person employing any child contrary to the provisions of this section shall be liable to a penalty not exceeding one hundred dollars for each offence. 1916, c. 97, s. 6.

7. Where, in the opinion of the principal of the school attended by such child, or of any justice of the peace, or of any police magistrate, the services of such child if over the age of ten years are needed in husbandry or in urgent and necessary household duties, or for the necessary maintenance of such child, or of some person dependent upon him, such principal, justice of the peace or police magistrate, may by certificate setting forth the reasons therefor, relieve such child from attending such school for any period not exceeding six weeks in any school term, and a copy of such certificate shall be sent forthwith to the attendance officer. 1916, c. 97, s. 7.

8. The board of any rural school district may, and the board of every school district in any city, town or incorporated village (or any other school district employing three or more teachers) shall, appoint one or more persons to act as school attendance officers for the enforcement of this Act. The school attendance officers shall, for the purpose of this Act, be vested with police powers and shall have authority to enter theatres, play-houses, places of public entertainment and amusement, factories, workshops, stores, shops and all other places where children may be employed or congregated, and shall perform such services as he or they deem necessary for the enforcement of this Act. 1916, c. 97, s. 8.

20. If the parent, guardian or other person having the legal charge or control of any child neglects or refuses to cause such child to attend some school or to make satisfactory provisions for the education of such child after being notified as herein required (unless such child has been excused from such attendance as provided by this Act) the school attendance officer shall make or cause to be made, a complaint against the parent, guardian or other person before a police magistrate or justice of the peace having jurisdiction in the school district in which the offence occurred and, upon conviction of such refusal or neglect, such parent, or guardian or other person shall be liable to a fine of not less than \$5 nor more than \$20, and in default of payment to imprisonment for a period not exceeding twenty days, or the court may, in its discretion, require the person so convicted to give a bond in the penal sum of \$100, with one or more sureties to be approved by said Court, conditioned that the person so convicted shall cause the child or children under his or her legal charge or control to attend some school within five days thereafter, and to remain at school or under satisfactory instruction as required by this Act. 1916, c. 97, s. 20.

### Housing Accommodation for Workingmen.

Chapter 51.—1. In this Act "lands" shall include leaseholds; "securities" shall mean bonds, debentures, debenture stock or other securities.

2. A company incorporated under "The Companies Act," with a share capital, whose main purposes of incorporation are the acquisition of lands in or near a city or town in Manitoba, and the building and making thereon of dwelling houses of moderate size and improvements and conveniences, to be rented at moderate rents, may petition the council of such city or town to guarantee its securities, to enable or assist it to raise money to carry out such main purposes.

3. If the Council is satisfied that additional housing accommodation for those living or working in the municipality is urgently needed, and that the main purpose of the company is to help *bona fide* in supplying such need, and is not to make profits, and that the company, without borrowing the money required, over and above the proceeds of the guaranteed securities, for the housing accommodation in contemplation, will be able to provide the same, the council may, with the assent of the electors entitled to vote on money by-laws, pass a by-law authorizing and providing for the giving by the council of such guarantee to the amount and upon the terms and conditions hereinafter contained. Should the company at any time make default in payment of the mortgage or any other security guaranteed by the city, and should the city at any time be obliged to take over the land and buildings of the company, then the city is hereby authorized to issue debentures or stock in order to meet the payment required to be made in respect of said mortgage or security, and without submitting a by-law to the rate-payers, if the council deems advisable, and such stock or debentures shall bear interest at such rate, and shall be payable at such time and date, as the council may see fit.

4. The council, or a committee thereof, shall, before the guarantee is given, approve of the location of the lands selected for the housing accommodation and of the general plans for the houses.

5. The securities to be guaranteed shall be secured by one or more deeds of trust by way of first mortgage or charge upon such lands as the council or committee may approve of, including the houses and improvements built and made or to be built and made thereon.

6. The kind of securities to be guaranteed and the forms and terms thereof, and the forms and terms of the deed or deeds of trust securing them, and the trustee or trustees, and (the times and manner of the issue of securities and) the disposition of the moneys to be raised thereon by sale, pledge or otherwise, pending the expenditure of such moneys, and the forms and manner of guarantee, shall be such as the council or committee approve of; and such terms, provisions and conditions may be included in such deed or deeds of trust as the council or committee deem expedient or necessary.

7. (1) The guarantee shall be signed by the mayor and treasurer of the municipal corporation, and upon being so signed the corporation shall become liable for payment of the principal and interest of the securities guaranteed, according to the tenor thereof.

(2) If the corporation becomes liable to pay any of such guaranteed securities, it may provide for the payment of the same out of the general funds of the corporation or by the issue of debentures payable within a term not exceeding ten years from the issue thereof, and it shall not be necessary to obtain the assent of the electors to a by-law providing for the issue of such debentures.

8. The total amount of securities to be guaranteed shall not in the first instance exceed 85 per cent of an amount to be fixed in the deed or deeds of trust as representing the value of the lands and housing accommodation and improvements to be built and made thereon, and the said deed or deeds may make all convenient provisions for the expenditure of additional moneys on the said lands and housing accommodation and improvements and for the acquisition of additional lands to be made part of the mortgaged premises and for expenditure thereon, and for the issue of additional guaranteed securities under said deed or deeds, but so that the total amount outstanding shall not exceed 85 per cent of the value of the mortgaged premises to be ascertained and fixed in the manner provided in such deed or deeds, and for the issue of such additional securities in advance of expenditure, and for the disposition of the moneys to be raised thereon by sale, pledge or otherwise, pending the expenditure thereof.

9. The council of the municipal corporation which guarantees securities of the company as provided for in this Act may from time to time appoint and remove one or more members of the board of directors of such company, and in case of a vacancy in such membership by removal, death, resignation or otherwise, his successor may be appointed by the council, and so on from time to time. It shall not be necessary for the appointee of the council to hold stock in the capital of the company or to be otherwise qualified as a director.

10. The books of a company whose securities have been guaranteed by a municipal corporation (hereinafter referred to as the "assisted company") shall at all times be open to inspection by any person named in that behalf by the council.

11. (1) No dividend upon the capital stock of the assisted company, or other distribution of profits among the shareholders, shall be declared or paid exceeding six per cent. per annum in any one year.

(2) Such dividend may be payable in installments during the year.

(3) If the sums paid in any year do not amount to six per cent the deficiency, with interest, may be made up in any subsequent year or years.

12. (1) Any net profits received by the assisted company in any year, and not required to pay said six per cent or to make up a deficiency therein, or for a reasonable contingent fund, shall be expended by the company in acquiring lands, improving its housing accommodation by way of new buildings, additions, extensions or other improvements, or in redeeming or getting in the capital stock of the company, as hereinafter provided.

(2) The Court of King's Bench of Manitoba shall have jurisdiction upon the application of the council of the municipal corporation guaranteeing the company's securities, to enforce by mandamus or otherwise the carrying out of this section by the company, its directors and officers.

13. (1) The assisted company may, with the approval of the council of the municipal corporation guaranteeing its securities, pass a by-law providing for redeeming or getting in, upon such plan and terms and at such times as may be deemed best, the whole or part from time to time of the outstanding shares in the capital stock of the company.

(2) For such purpose any available moneys, whether representing capital or otherwise, may be used; provided always that no greater premium than ten per cent shall be paid upon the redemption or getting in of any share; provided that after five years from the first issue of guaranteed securities the company, at the request of the said council, shall pass such by-law, and any difference which may then arise respecting the terms thereof shall be settled by the Lieutenant-Governor in Council.

14. Any shareholder may give or bequeath to the assisted company, or to the board of trustees established under section 15, the whole or any part of his shares in the capital stock of the company, and the company may accept and hold the same until transferred to the board of trustees.

15. The assisted company may, with the approval of the council of the municipal corporation guaranteeing the securities, establish a board of trustees to receive and hold the shares redeemed or got in or given or bequeathed to the company or to such board, upon such trusts, and for such purposes and with such powers as may be thought expedient in furtherance of the objects of this Act and as may be declared or provided for in the instrument establishing the board. The successors of the said trustees shall be appointed in the manner provided for in said instrument. The company with the like approval may alter the terms of said instrument and add to or otherwise vary the trusts, purposes and powers therein mentioned; provided that after five years from the first issue of guaranteed securities the company, at the request of the said council, shall establish such board of trustees. Any differences which may then arise respecting the terms of the instrument establishing the board shall be settled by the Lieutenant-Governor in Council.

16. The shares redeemed or got in or given or bequeathed to the company shall not become extinct, but shall be transferred to and vested in the said board of trustees.

17. The council of the municipal corporation guaranteeing the company's securities may from time to time furnish the company with moneys to be applied in the redemption or getting in of shares from time to time under the terms of the by-laws above mentioned, and the company shall apply such moneys accordingly.

18. No stock in the capital of the assisted company shall be sold or disposed of for any consideration other than cash, and moneys received by the assisted company, on account of its capital stock, shall not be used for expenditures other than those connected with the carrying out of the main purposes of the company, viz., the acquisition of lands in or near a city or town in Manitoba, and the building and making thereon of dwelling houses of moderate size and improvements and conveniences, and the carrying out of the objects of this Act.

19. The assisted company may accept legacies, gifts and devises of personal and real property notwithstanding any law or act respecting mortmain to the contrary.

20. This Act shall come into force on the day it is assented to.

## STATUTES OF 1915.

### Bureau of Labour.

Chapter 6.—1. This Act may be cited as The Bureau of Labour Act.

2. There shall be attached to the Department of Public Works a bureau, to be styled "The Bureau of Labour."

3. The Lieutenant-Governor in Council may appoint a secretary of the said bureau, and may also appoint such other officers as may be deemed necessary for the proper conduct of the bureau.

4. It shall be the duty of the bureau to collect, assort, systematize and publish information and statistics relating to employment, wages and hours of labour, co-operation, strikes, lockouts or other labour difficulties, trades unions, labour organizations, the relations between labour and capital, and other subjects of interest to workingmen throughout Manitoba, with such information relating to the commercial, industrial and sanitary condition of workingmen, and the permanent prosperity of the industries of Manitoba, as the bureau may be able to gather.

5. This Act shall come into force on the day it is assented to.

#### **Examination and Licensing of Stationary Engineers.**

[Chapter 77, The Stationary Engineers' Act, is replaced by 1916, chapter 103, The Steam Boiler Act.]

#### **Prison Labour.**

[The Industrial Farm Act, Chapter 57, 1916, contains the first provision respecting prison labour in Manitoba. The Act authorizes the establishment of an industrial farm to which certain offenders may be committed. Section 9 provides for the employment of such prisoners as follows:—]

9. The Lieutenant-Governor in Council may direct or authorize the employment upon any public work beyond the limits of the industrial farm of any person who is under sentence of detention at such industrial farm.

**SASKATCHEWAN.****REVISED STATUTES OF 1909.****Protection of Employees as Voters—Time to Vote.**

Chapter 3.—168. Every voter shall on the day of polling for the purpose of voting be entitled to absent himself from any service or employment in which he is then engaged or employed from the hour of noon until the hour of three o'clock next thereafter, and a voter shall not because of this so absents himself be liable to any penalty or suffer or incur any reduction from wages or compensation to which but for his absence he would have been entitled:

Provided that this section shall not apply where a voter is by his employer permitted or allowed at any other period during the hours of polling reasonable and sufficient time and opportunity to vote.

228. Every person who directly or indirectly, himself or by any other person on his behalf uses or threatens to use force, violence or restraint or inflicts or threatens to inflict injury, damage, harm or loss or in any manner practices intimidation upon or against a voter in order to induce or compel him to vote or refrain from voting or on account of his having voted or refrained from voting or who by abduction, duress or false or fraudulent pretence, device or contrivance impedes, prevents or otherwise interferes with the free exercise of the franchise of a voter or thereby compels, induces or prevails upon a voter to vote or refrain from voting shall be guilty of a corrupt practice and shall incur a penalty of \$200 or to imprisonment for a term not exceeding one year.

(2) It shall be a false pretence within the meaning of this section to represent to a voter directly or indirectly that the ballot to be used or the mode of voting at an election is not secret.

**Inspection and Regulation of Factories, Construction Camps, etc.—Sanitation.**

[Chapter 16, The Public Health Act, section 2 interprets "house" as including factories and other buildings, and section 10 (2) enumerates in a number of clauses the subjects upon which the Commissioner of Public Health with the approval of the Lieutenant-Governor in Council may make regulations.<sup>1</sup> Among these subjects are the following:

3. The cleansing, purifying, ventilating, plumbing and disinfecting of houses . . . buildings and places of assembly . . . by the owners and occupiers and persons having the care and ordering thereof;

4. The inspection of . . . houses, . . . and places of assembly;

5. The construction, maintenance, cleansing and disinfection of all drains, sewerage systems and sewers and systems for the sewage disposal, the location, cleaning and disinfection of water closets, cesspools, privies and pigsties, the location, cleansing and disinfection of wells and the cleansing of streets and yards;

8. The inspection, licensing, method of construction, furnishing, equipping and maintaining, cleansing and disinfecting all slaughter houses and other places in which animals are killed and their meat prepared for sale or to be used for food and all canneries, fish houses, smokehouses and warehouses in which fish are cured, packed or prepared for sale or to be used as food and all starch factories, dye works or factories in which blood, offal or skins or paraffin, tallow, soap or fertilizers or gas are worked up.

18. The imposition, levying and recovery of penalties upon and from any person who shall violate any rules, orders or regulations made hereunder;

19. The sanitary control of lumbering, mining, construction, threshing and other camps;

[Sections 53a, 53b and 53d, added to chapter 16 by 1914, chapter 7, regulate the use of drinking cups and towels in factories, offices and stores as follows:]

<sup>1</sup> Regulations have been issued under this section regarding the drainage and plumbing of houses and other buildings, and governing sewerage systems, etc. An important set of regulations has also been issued for the sanitary control and prevention of disease in lumbering and other camps.

53a. In this section and the four following sections, unless the context otherwise requires, the expression;

(1) 'Public place' means a railway, railway station, railway car, school, municipal building, hotel, restaurant, club, theatre, opera house, public hall, amusement grounds, resort, factory, office, store, lodging house, boarding house, or any tent, building or structure of any kind to which the public have access;

(2) 'Common use' means use by more than one person. 1913, c. 7, s. 10, part.

53b. No person owning or controlling a public place shall provide drinking cups for common use or allow drinking cups for common use to be in or upon the premises. 1913, c. 7, s. 10, part.

53d. No person owning or controlling a public place shall furnish towels for common use or permit towels intended for common use to be upon the premises; but where towels are furnished for the public or for guests, patrons, visitors or employees, the proprietor, manager or person in charge shall provide individual towels for each person. 1913, c. 7, s. 10, part.

### Inspection and Regulation of Factories.

Chapter 17 with amendment.—1. This Act may be cited as The Factories Act.

#### Interpretation.

2. In this Act unless the context otherwise requires the expression:

(1) "Factory" means:

(a) Any building, workshop, structure or premises of the description mentioned in schedule A to this Act together with such other building, structure or premises as the Lieutenant-Governor in Council may from time to time add to the said schedule; and the Lieutenant-Governor in Council may from time to time by proclamation notice of which shall be published in The Saskatchewan Gazette add to or remove from the said schedule such description of premises as he deems necessary or proper;

(b) Any premises, building, workshop, structure, room or place wherein or within the precincts of which steam, water or other mechanical power is used to move or work any machinery employed in preparing, manufacturing or finishing or in any process incidental to the preparing, manufacturing or finishing of any article, substance, material, fabric or compound or is used to aid the manufacturing process carried on therein;

(c) Any premises, building, workshop, structure, room or place wherein the employer of the persons working therein has the right of access or control and in which or within the precincts of which any manual labour is exercised by way of trade or for the purposes of gain in or incidental to the following purposes or any of them, that is to say: the making of any article or part of any article; the altering, repairing, ornamenting or finishing of any article; or the adapting for sale of any article;

Provided that where not more than three persons are employed in any place coming within the foregoing definition of a factory or that where children, youths, young girls or women are employed at home, that is to say in a private house, place or room used as a dwelling wherein neither steam, water nor other mechanical power is used in aid of the manufacturing process carried on therein and wherein the only persons employed are members of the same family dwelling therein the provisions of this Act shall not apply. 1910-11, c. 41, s. 6 (1).

(i) A part of a factory may for the purposes of this Act be taken to be a separate factory; and a place used as a dwelling shall not be deemed to form part of the factory for the purposes of this Act.

(ii) Where a place situate within the close or precincts forming a factory is used solely for some purpose other than the manufacturing process or handicraft carried on in the factory such place shall not be deemed to form part of that factory for the purposes of this Act but shall if otherwise it would be a factory be deemed to be a separate factory and be regulated accordingly;

(iii) Any premises or place shall not be excluded from the definition of a factory by reason only that such premises or place are or is in the open air;

(iv) Where any owner, tenant or occupier of any premises, building, workshop, structure, room or place who has the right of access thereto and control thereof lets or hires out or contracts for work or labour to be done therein by any person and such other person engages or employs therein any workman, child, youth, young girl or woman in or for the carrying out or performing of such work or labour or any part thereof every such workman, child, youth, young girl or woman shall for all the purposes of this Act be deemed to be in the service and employment of such owner, tenant or occupier and in computing the number of persons employed in any place in order to ascertain whether such place is a factory every such workman, child, youth, young girl or woman shall be taken into account;

(2) "Minister" means the member of the Executive Council who may be entrusted by the Lieutenant-Governor in Council with the administration of this Act;

(3) "Inspector" means any one of the inspectors appointed by order of the Lieutenant-Governor in Council under the authority and for enforcing the provisions of this Act;

(4) "Employer" means any person who in his own behalf or as the manager, superintendent, overseer or agent for any person, firm, company or corporation has charge of any factory and employs persons therein;

(5) "Week" means the period between midnight on Sunday night and midnight on the succeeding Saturday night;

(6) "Child" means a person under the age of fourteen years;

(7) "Youth" means a male person of the age of fourteen years and under the age of sixteen years;

(8) "Young girl" means a female person of the age of fourteen years and under the age of eighteen years;

(9) "Woman" means a female person of eighteen years of age and upwards;

(10) "Parent" means a parent or guardian of or a person having the legal custody of or the control over or having direct benefit from the wages of a child, youth or young girl;

(11) "Court" or "court of summary jurisdiction" means the justices of the peace or police magistrate, as the case may be, to whom jurisdiction is given by this Act to hear and determine prosecutions under this Act;

(12) "Mill gearing" comprehends every shaft whether upright, oblique or horizontal and every wheel, drum or pulley by which the motion of the first moving power is communicated to any machine appertaining to a manufacturing process;

(13) "Night" or "night time" means the interval between nine o'clock in the afternoon and six o'clock in the forenoon of the following day; and "day" or "day time" means the interval between six o'clock in the forenoon and nine o'clock in the afternoon of the same day.

3. No child shall be employed in any factory.

4. The Lieutenant-Governor in Council may from time to time by order in council notice of which shall be published in The Saskatchewan Gazette, prohibit the employment of youths and young girls in factories the work in which is deemed by the Lieutenant-Governor in Council to be dangerous or unwholesome.

5. Any person found in a factory except during meal hours or while all the machinery of the factory is stopped or when present for the sole purpose of bringing food to any person employed in the factory shall until the contrary is proved be deemed for the purposes of this Act to have been then employed in the factory.

(2) Yards, playgrounds and places open to the public view, waiting rooms and other rooms belonging to the factory in which no machinery is used or manufacturing process carried on shall not be taken to be any part of the factory within the meaning of this section.

(3) Where any person is in the opinion of the court apparently of the age alleged by the informant it shall lie on the defendant to prove that such person is not of that age.

6. A child, youth, young girl or woman who works in a factory whether for wages or not either in a manufacturing process or handicraft or in cleaning any part of the factory used for any manufacturing process or handicraft or in cleaning or oiling any part of the machinery or in any other kind of work whatsoever incidental to or connected with the manufacturing process or handicraft or connected with the article made or otherwise the subject of the manufacturing process or handicraft therein shall, save as is otherwise provided by this Act be deemed to be employed in such factory within the meaning of this Act; and for the purposes of this Act an apprentice shall be deemed to work for hire.

(2) Young girls and women in factories shall during working hours wear their hair rolled or plaited and fastened securely to their heads or confined in a close fitting cap or net so as to avoid contact with working machines or shafting or material being handled; it shall be the duty of managers, superintendents, foremen and others in charge to see that employees are fully notified of the provisions of this section.

7. It shall be unlawful to employ in a factory any youth, young girl or woman so that the health of such youth, young girl or woman is likely to be permanently injured.

8. No youth, young girl or woman shall be employed in any factory for more than nine hours in any one day and fifty hours in any one week; the hours of working in any one day shall not be later than half past six o'clock in the afternoon unless a special permit in writing has been obtained from an inspector. 1910-11, c. 41, s. 6 (3).

(2) In every factory the employer shall allow every youth, young girl and woman therein employed not less than one hour at noon of each day for meals; but such hour shall not be counted as part of the time herein limited as respects the employment of youths, young girls and women.



(3) If an inspector so directs in writing the employer shall not allow any youth, young girl or woman to take meals in any room wherein any manufacturing process is then being carried on; and if the inspector so directs in writing the employer shall at his own expense provide a suitable room or place in the factory or in connection therewith for the purpose of a dining and eating room for persons employed in the factory.

(4) Any contravention of the provisions of this section is for greater certainty and not so as to restrict the generality of the provisions of section 7 of this Act hereby declared to be an employing within the prohibition contained in the said section 7.

9. Subject to any regulations which may be made in that behalf by the Lieutenant-Governor in Council an inspector:

(a) Where any accident which prevents the working of any factory happens to the motive power of any machinery; or

(b) Where from any other occurrence beyond the control of the employer the machinery or any part of the machinery of any factory cannot be regularly worked; or

(c) Where the customs or exigencies of certain trades require that the youths, young girls or women working in a factory or in certain processes in a factory shall be employed for a longer period than as herein provided;

may on due proof to his satisfaction of such accident, occurrence, custom or exigency of trade grant such exemption from the observance of the foregoing provisions of this Act as will in his judgment fairly and equitably to the proprietors of such factory and to the youths, young girls or women employed therein make up for any loss of labour from such accident or occurrence or meet the requirements of such custom or exigency of trade.

(2) Whenever such exemption is granted:

(a) No youth, young girl or woman shall be employed before the hour of seven o'clock in the morning or after the hour of ten o'clock in the afternoon; and

(b) The hours of labour for youths, young girls and women shall not be more than twelve and a half in any one day nor more than seventy-two and a half in any one week; and

(c) Such exemptions shall not comprise more than thirty-six days in the whole in any year; and in reckoning such period of thirty-six days every day on which any youth, young girl or woman has been employed overtime shall be taken into account; and

(d) During the continuance of such exemption there shall in addition to the hour for the noon-day meal provided for by section 8 of this Act be allowed to every youth, young girl or woman so employed in the factory on any day to an hour later than seven o'clock in the afternoon not less than forty-five minutes for another or evening meal between five and eight of the clock in the afternoon; and

(e) In every factory with respect to which any such exemption is so granted there shall in compliance with the provisions of section 34 of this Act be affixed a notice specifying the extent and particulars of such exemption.

10. When under the exemptions provided for in this Act any youth, young girl or woman is employed in any factory on any day for a longer period than is allowed under section 8 hereof the duration of such employment shall be daily recorded by the employer in a register which shall be in such form as may be required by any regulations made in that behalf by the Lieutenant-Governor in Council.

11. Notice of the hours between which youths, young girls or women are to be employed in any factory shall be made in such form as may be required by the regulations made in that behalf by the Lieutenant-Governor in Council and the form of such notice shall be signed by an inspector and by the employer and shall be hung up during the period affected by such notice in such conspicuous place or places in the factory as the inspector requires.

12. A young girl shall not be allowed to clean any part of the machinery in a factory while the same is in motion by aid of steam, water or other mechanical power.

(2) A young girl or woman shall not be allowed to clean any mill gearing in a factory while the same is in motion for the purpose of propelling any part of the manufacturing machinery.

(3) A young girl shall not be allowed to work between the fixed and traversing part of any self-acting machine while such machine is in motion by the action of steam, water or other machinery power.

(4) A young girl or woman allowed by an employer to clean or to work in contravention of this section shall be deemed to be employed by him contrary to the provisions of section 7 of this Act.

13. (a) The owner of every factory shall provide a sufficient number and description of privies, earth or water closets and urinals for the employees of such factory, including separate sets for the use of male and female employees, and shall have separate approaches to the same, the recognized standard being one closet for every twenty-five persons employed in the factory;

(b) The owner of every factory shall be held responsible for the remedying of any effluvia arising from any drain or defective plumbing and for any repairs required to keep the building in a safe and habitable condition;

(c) The owner of every factory shall arrange for a supply of pure drinking water available for each tenant in the factory.

(2) The owner of every factory who for thirty days refuses or neglects to comply with any of the above requirements or conditions after being notified in writing in regard to the same by an inspector shall be deemed to be guilty of a contravention of the provisions of this Act.

14. (a) The employer of every factory shall keep the factory in a clean and sanitary condition and free from any effluvia arising from refuse of any kind;

(b) The employer of every factory shall keep privies, earth or water closets and urinals in good repair and in a sanitary condition and shall be held responsible for keeping closets separated for male and female employees;

(c) The employer of every factory shall heat each compartment used by him and regulate the temperature so as not to be injurious to the health and comfort of the employees and so as to be consistent with the work performed therein, but in no case shall the temperature be less than 60 degrees Fahrenheit unless specially authorised by an inspector in writing;

(d) The employer of every factory shall be held responsible for ventilating the factory in such a manner as to keep the air reasonably pure and so as to render harmless as far as reasonably practicable all gases, vapours, dust or other impurities originating in the course of the manufacturing process or handicraft carried on therein that may be injurious to the health;

(e) The employer of every factory shall not allow overcrowding while work is carried on therein so as to be injurious to the health of the persons employed therein, the standard to be allowed being 300 cubic feet of room space for each employee;

(f) Every inspector shall have power in his discretion to require the employer to provide a sufficient number of spittoons and place the same in different parts of the factory and to keep the same clean;

(g) In every factory where any process is carried on by which dust is caused to exist and may be inhaled by the workers to an injurious extent if such inhalation can by mechanical means be prevented or partially prevented the inspector may subject to such regulations as may be made in that behalf by the Lieutenant-Governor in Council under the provisions of this Act direct that such means shall be provided within a reasonable time by the employer who in such cases shall be bound to provide them;

(h) The employer of every factory shall provide for employees a supply of wholesome drinking water and proper drinking cups which shall be at least eight feet distant from water closets and urinals.

(2) Where grinding, polishing or buffing is carried on in any shop the preceding paragraph (g) shall apply irrespective of the number of persons employed therein.

(3) The employer of every factory who for thirty days refuses or neglects to comply with any of the above requirements or conditions after being notified in writing in regard to the same by an inspector shall be deemed to be guilty of a contravention of the provisions of this Act.

15. Where two or more persons occupy or use the same room or premises for carrying on any work or business within the meaning of this Act and employ in the aggregate five persons or more, no one of such persons employing so many as five each of the several employers shall be held responsible for providing proper and sufficient water-closets and the other requirements set forth in section 14 of this Act which said sections shall apply to each and every of such employers as if they were partners in all the work or business of the said room or premises.

16. Every inspector may for the purposes of the three next preceding sections take with him into any factory any legally qualified medical practitioner within the meaning of The Medical Profession Act or any health officer or sanitary inspector appointed pursuant to The Public Health Act.

17. No person shall keep a factory so that the safety of any person employed therein is endangered or so that the health of any person employed therein is likely to be permanently injured.

18. There shall not be a bed room or sleeping place on the same floor of a building as a shop, bake house or factory nor shall there be save with the written consent of an inspector any bed room or sleeping place in the same building as a shop, bake house or factory.

(2) No stable shall be under the same roof as a factory unless there is between the stable and the factory a sufficient brick or other partition wall approved by an inspector separating one from the other.

## 19. In every factory:

(a) All dangerous parts of mill gearing, machinery, vats, pans, cauldrons, reservoirs, wheel races, flumes, water channels, doors, openings in the floors or walls, bridges and all other like dangerous structures or places shall be so far as practicable securely guarded;

(b) No machinery other than steam engines shall (if an inspector so directs by written notice) be cleaned while in motion;

(c) The openings of every hoistway, hatchway and well hole used for power elevators shall be at each floor including the basement provided with and protected by good and sufficient trap doors or self-acting hatches or by gates closing automatically which gates shall be not less than five feet six inches high and may be in sections if desired; the sides of the shaft on all floors including basement not guarded by gates shall be protected by enclosures at least six feet high approved by an inspector; where the elevator is enclosed in a tower having walls over six inches thick, it may be provided with an extra operating rope outside the tower; in every case the elevator shall be provided with a lock to secure the operating rope; in case of elevators operated by hand power the gates shall be not less than three feet in height and shall be automatic closing gates and the sides not protected by gates shall be protected by enclosures not less than four feet in height approved by an inspector; a clearly painted sign marked "dangerous" having letters not less than four inches in height shall be affixed or stencilled on the bottom rail of every gate where it will be plainly visible from the outside; the top of every elevator platform shall be provided with a guard sufficient to protect the occupants and approved by an inspector;

(d) All elevator cabs or cars whether used for freight or passengers shall be provided with some suitable mechanical device to be approved by an inspector whereby the cab or car will be securely held in the event of accident to the shipper, rope or hoisting machinery or otherwise howsoever;

(e) Any other particulars which any inspector from time to time considers dangerous and in regard to which he gives notice to that effect to the employer shall likewise so far as practicable be secured or securely guarded;

(f) Inflammable material such as coal oil, petroleum, benzine or naphtha and explosives of all kinds shall be kept stored when not in actual use in a building separated from the other parts of the factory or in a fire proof compartment of the factory approved by an inspector.

(2) A factory in which there is a contravention of any of the provisions of this section or any of the regulations made for the enforcement of this section shall be deemed to be kept unlawfully within the meaning of section 17 of this Act.

## 20. In every factory:

(a) There shall be such means of extinguishing fire as an inspector acting under the regulations made pursuant to the provisions of this Act in that behalf by the Lieutenant-Governor in Council directs in writing;

(b) The main inside and outside doors shall open outwardly and any door leading to or being the principal or main entrance to the factory or to any tower stairways or fire escapes therein or belonging thereto shall not be bolted, barred or locked at any time during the ordinary and usual working hours in the factory.

(2) The owner of every factory exceeding two storeys in height and where deemed necessary by the inspector the owner of every factory over one storey in height shall within six months from the time of the passing of this Act provide the said factory with one or more systems of fire escapes as follows and shall keep the same in good repair:

(a) A sufficient number of tower stairways with iron doorways within reach of or having easy communication with all the working rooms of the factory; or

(b) A sufficient number of iron or other unflammable fire escapes on the outside of the building, such fire escapes to consist of stairways with railing or, in case the special approval of the inspector is given in writing then, of iron ladders and every such stairway or ladder shall be connected with the interior of the building by iron or tinued doors or windows with iron shutters and shall have suitable landings at every storey including the attic if the attic is occupied as a workroom and the said stairways shall start at a distance of not more than eight feet from the ground or pavement; or

(c) Any other system or form of fire escape that may be sanctioned under this Act by the Lieutenant-Governor in Council on the recommendation of the inspector. 1910-11, c. 41, s. 6. (2).

(3) A factory in which there is a contravention of any of the provisions of this section shall be deemed to be kept unlawfully within the meaning of section 17 of this Act.

21. In case of a fire or accident in any factory occasioning any bodily injury to any person employed therein whereby he is prevented from working for more than six days next after the fire or accident a notice in writing shall be sent to the inspector by the employer forthwith after the expiration of the said six days. 1910-11, c. 41, s. 6 (2).

22. In case of an explosion occurring in a factory whether any person is injured thereby or not notice in writing of the fact of such explosion having occurred shall be sent to the inspector by the employer within twenty-four hours next after the explosion occurred. 1910-11, c. 41, s. 6 (2).

23. Where in a factory any person is killed from any cause or is injured from any cause in a manner likely to prove fatal notice in writing of the fact shall be sent to the inspector by the employer within twenty-four hours next after the occurrence thereof. 1910-11, c. 41, s. 6 (2).

24. Where in a factory the owner or hirer of a machine or implement moved by steam, water or other mechanical power in or about or in connection with which machine or implement children, youths, young girls or women are employed is some person other than the employer as defined by this Act and such children, youths, young girls or women are in the employment and pay of the owner or hirer of such machine or implement, in any such case such owner or hirer shall so far as respects any offence against this Act which may be committed in relation to such children, youths, young girls or women be deemed to be the employer.

25. The provisions of this Act which relate:

(a) To the cleanliness, the freedom from effluvia or the overcrowding or ventilation of a factory; and

(b) To youths, young girls and women being during any part of the times allowed for meals in a factory employed in the factory or being allowed to remain in any room; and

(c) To the affixing of any notice or abstract in a factory or specifying any matter in the notice so affixed save and except where such notice is a notice of the name and address of an inspector; and

(d) To the sending notice of accidents; shall not apply where persons are employed at home, that is to say, to a private house, room or place which though used as a dwelling might by reason of the work carried on therein be a factory within the meaning of this Act and in which neither steam, water nor other mechanical power is used and in which the only persons employed are members of the same family dwelling therein.

26. The provisions of this Act which relate:

(a) To youths, young girls and women being during any part of the times allowed for meals in a factory employed in a factory or being allowed to remain in any room; and

(b) To the affixing of any notice or abstract in a factory or specifying any matter in the notice so affixed, save and except where such notice is a notice of the name and address of an inspector; shall not apply to a factory which is conducted on the system of not employing youths or young girls therein and the occupier of which has served on the inspector notice of his intention to conduct his factory upon that system. 1910-11, c. 41, s. 6 (2).

27. Where an employer has given to the inspector notice in writing of his intention to conduct his factory on the system of not employing youths or young girls therein the factory shall be deemed for all the purposes of this Act to be conducted on the said system until the employer changes it and no changes shall be made until the employer has given to the inspector notice in writing of his intention to change the system; and until the change a youth or young girl employed in a factory shall be deemed to be employed contrary to the provisions of this Act; a change in the said system shall not be made oftener than once in every three months unless for special cause allowed in writing by the inspector. 1910-11, c. 41, s. 6 (2).

28. Nothing in this Act shall extend to any person being a mechanic, artisan or labourer working only in repairing either the machinery in or any part of a factory.

29. The Lieutenant-Governor in Council may appoint one or more inspectors, male or female, and fix their salaries or compensation and appoint their duties.

30. Every inspector shall for the purposes of this Act and of enforcing any regulations made under the authority thereof have power to do all or any of the following things, namely:

(a) To enter, inspect and examine at all reasonable times by day or night any factory and any part thereof when he has reasonable cause to believe that any person is employed therein and to enter by day any place which he has reasonable cause to believe to be a factory;

(b) To require the production of any register, certificate, notice or document required by this Act to be kept and to inspect, examine and copy the same;

(c) To take with him in either case a constable into a factory in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty;

(d) To make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are complied with so far as respects the factory and the persons employed therein;

(e) To examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act every person whom he finds in a factory or whom he has reasonable cause to believe to be or to have been within the two next preceding months employed in a factory and to require such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so examined;

(f) For the purposes of any investigation, inquiry or examination made by him under the authority of this Act to administer an oath to and to summon any person to give evidence;

(g) To exercise such other powers as may be necessary for carrying this Act into effect.

(2) The employer, his agents and servants shall furnish the means required by an inspector as necessary for an entry, inspection, examination, inquiry or the exercise of his powers under this Act in relation to such factory.

(3) Every person who wilfully delays an inspector in the exercise of any power under this section or who fails to comply with a requisition or summons of an inspector in pursuance of this section or to produce any certificate or document which he is required by or in pursuance of this section or to produce any certificate or document which he is required by or in pursuance of this Act to produce or who conceals or prevents from appearing before or being examined by an inspector a child, youth, young girl or woman or attempts so to conceal or prevent a child, youth, young girl or woman shall be deemed to obstruct an inspector in the execution of his duties under this Act.

31. An inspector before entering in pursuance of the powers conferred by this Act without the consent of the occupier any room or place actually used as a dwelling as well as for a factory shall on an affidavit or statutory declaration of the facts and reasons obtain written authority to do so from the minister or such warrant as is hereinafter mentioned from a justice of the peace or police magistrate.

(2) The affidavit or statutory declaration above mentioned may be inspected or produced in evidence in all respects the same as an information on oath before a justice.

(3) A justice of the peace or police magistrate if satisfied by an information on oath that there is reasonable cause to suppose that any provision of this Act is contravened in any such room or place as aforesaid may in his discretion grant a warrant under his hand authorizing the inspector named therein at any time within the period named therein but not exceeding one month from the date thereof to enter in pursuance of this Act the room or place named in the warrant, and exercise therein the powers of inspection and examination conferred by this Act and the provisions of this Act with respect to obstruction of the inspector shall apply accordingly.

32. Every inspector shall be furnished with a formal certificate of his appointment and on applying for admission to a factory shall if required produce to the employer the said certificate.

33. Every person shall within one month after he begins to occupy a factory and in the case of factories existing on the fourth day of April, 1910, within one month after the said date send to the inspector a written notice containing the name of the factory, the place where it is situated, the address to which he desires his letters to be addressed, the nature of the work, the nature and amount of the moving power therein and the name of the firm under which the business of the factory is to be carried on. 1910-11, c. 41, s. 6 (2).

(2) In every factory the employer shall keep in the form and with the particulars prescribed by any regulation made by the Lieutenant-Governor in Council in that behalf a register of the youths, young girls and women employed in that factory and of their employment and of other matters under this Act and shall send to the inspector named in the notice referred to in section 35 of this Act such extracts from any register kept in pursuance of this Act as the inspector from time to time requires for the execution of his duties under this Act.

34. Every employer shall cause to be affixed at the entrance of a factory and in such other parts thereof as an inspector directs and to be constantly kept so affixed in the form directed by the inspector and in such position as to be easily read by the persons in the factory:

(1) Such notices of the provisions of this Act and of any regulations made thereunder as the minister deems necessary to enable the persons employed in the factory to become acquainted with their rights, liabilities and duties under this Act;

(2) A notice of the name and address of an inspector;

(3) A notice of the clock, if any, by which the period of employment and times for meals in the factory are regulated;

(4) Every other notice and document, if any, required by this Act to be affixed in the factory.

35. A notice of the name and address of an inspector shall in compliance with such directions as an inspector may give under the provisions of section 34 of this Act be affixed in every factory.

36. Any notice, order, requisition, summons and document required or authorised to be served or sent for the purposes of this Act may be served or sent by delivering the same to or at the residence of the person on or to whom it is to be served or sent or where that person is an employer within the meaning of this Act by delivering the same or a true copy thereof to his agent or to some person in the factory of which

he is employer; it may also be served or sent by post by a prepaid registered letter and if served or sent by post shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post and in proving such service or sending it shall be sufficient to prove that it was properly addressed and put into the post; and where it is required to be served on or sent to an employer it shall be deemed to be properly addressed if addressed to him at the factory in respect of which he is an employer with the addition of the proper postal address but without naming the person who is the employer.

#### Offences and Penalties.

37. Every person who acts in contravention of section 3 or 7 of this Act shall be liable to a penalty not exceeding \$100 and in default of payment forthwith to imprisonment for a period not exceeding six months or to imprisonment for a period not exceeding six months without the option of a fine.

38. Every person who acts in contravention of section 17 or 27 of this Act shall be liable to a penalty not exceeding \$500 and in default of payment forthwith to imprisonment not exceeding twelve months or to imprisonment for a period not exceeding twelve months without the option of a fine.

39. Every person who refuses, neglects or omits to comply with any of the provisions of sections 21, 22, 23, 33 or 34 of this Act shall be liable to a penalty of \$30.

40. The owner or proprietor of any factory who refuses, neglects or omits to provide the means of safe exit in case of fire prescribed by section 20 of this Act shall be liable to a penalty not exceeding \$500 and in default of payment forthwith to imprisonment for a period not exceeding twelve months or to imprisonment for a period not exceeding twelve months without the option of a fine.

41. Where an inspector is obstructed in the execution of his duties under this Act the person so obstructing him shall be liable to a penalty not exceeding \$30; and where an inspector is so obstructed in a factory the employer shall where the offence is committed during the day be liable to a penalty not exceeding \$30 or where the offence is committed at night to a penalty not exceeding \$100.

42. Every person who wilfully makes a false entry in any register, notice, certificate or document required by this Act to be left or served or sent or who wilfully makes or signs a false declaration under this Act or who knowingly makes use of any such false entry or declaration shall be liable to a penalty not exceeding \$100 and in default of payment forthwith to imprisonment for a period not exceeding six months or to imprisonment for a period not exceeding six months without the option of a fine.

43. The parent of any child, youth or young girl employed in a factory in contravention of this Act shall unless such employment is without the consent, connivance or wilful default of such parent be guilty of a contravention of this Act and shall be liable to a penalty not exceeding \$50 and in default of payment forthwith to imprisonment for a period not exceeding three months.

44. If any of the provisions of this Act or of any of the regulations, rules or orders made by virtue thereof by the Lieutenant-Governor in Council are contravened and no other penalty is herein provided for such contravention the person guilty of such contravention shall be liable to a penalty not exceeding \$50 and in default of payment forthwith to imprisonment not exceeding three months.

45. If a factory is not kept in conformity with this Act the court of summary jurisdiction in addition to or instead of inflicting a fine, penalty or other punishment upon the employer may order certain means to be adopted by the employer within the time named in the order for the purpose of bringing his factory into conformity with this Act; the court may also upon application enlarge the time so named but if after the expiration of the time as originally named or enlarged by subsequent order the order is not complied with the employer shall be liable to a penalty not exceeding \$10 for every day that such noncompliance continues.

46. Where the employer is charged with an offence against this Act he shall be entitled upon information duly laid by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if after the commission of the offence has been proved to the satisfaction of the court the employer proves that he has used due diligence to enforce compliance with the provisions of this Act and that the said other person has committed the offence in question without the knowledge and consent or connivance of him the employer the said other person shall be summarily convicted of such offence and the employer shall be exempt from any fine, penalty or imprisonment.

47. Where it is made to appear to the satisfaction of an inspector at the time of discovering the offence that the employer has used all due diligence to enforce compliance with the provisions of this Act and also by what person such offence was committed and also that it was committed without the knowledge, consent or connivance of the employer and in contravention of his orders then the inspector shall proceed against



the person whom he believes to be the actual offender in the first instance without first proceeding against the employer.

48. Where an offence for which an employer is liable under this Act to a fine has in fact been committed by some agent, servant, workman or other person such agent, servant, workman or other person shall be liable to the same fine, penalty or punishment for such offence as if he were the employer.

49. A person shall not be liable in respect to a repetition of the same kind of offence from day to day to any larger fine, penalty or punishment than the highest fine, penalty or punishment fixed by this Act for the offence except:

(1) Where the repetition of the offence occurs after an information has been laid for the previous offence; or

(2) Where the offence is one of employing a child, youth, young girl or woman contrary to the provisions of this Act.

#### Prosecutions.

50. All prosecutions under this Act shall be heard summarily before any two justices of the peace or a police magistrate.

51. The following provisions shall have effect with respect to prosecutions under this Act.

(1) The information shall be laid within two months or where the offence is punishable at discretion by imprisonment within three months after the offence has come to the knowledge of the inspector;

(2) It shall be sufficient to allege that a factory is a factory within the meaning of this Act, without more;

(3) It shall be sufficient to state the name of the ostensible employer or the title of the firm by which the employing person in the factory is usually known.

52. No conviction, judgment or order made in respect of any offence against this Act shall be removed by *certiorari* or otherwise into the Supreme Court.

53. Where an inspector is called as a witness he shall be entitled acting by the direction and on behalf of the attorney general to object to giving evidence as to any factory inspected by him in the course of his official duty.

#### General.

54. Such annual or other report of the minister as the Lieutenant-Governor directs shall be laid before the Legislative Assembly within twenty-one days after the commencement of the session thereof.

55. Unless and until otherwise ordered or directed by any regulation in that behalf made by the Lieutenant-Governor in Council:

(a) The register mentioned in and required by section 33 of this Act shall so far as the same relates to youths and young girls be according to form A in schedule B to this Act and so far as the same relates to women be according to form B in the said schedule;

(b) The register mentioned in and required by section 10 of this Act shall be according to form C in the said schedule;

(c) On the first page of any register kept by an employer pursuant to this Act or to any rule, order or regulation made in that behalf by the Lieutenant-Governor in Council shall be printed the form D in the said schedule or one to the like effect; and the same shall be properly filled up and signed by an inspector and the employer when such register is commenced to be kept;

(d) Notice of the hours between which youths, young girls or women are to be employed in any factory as required by section 11 of this Act shall be according to form E in the said schedule;

(e) Notice to the inspector under sections 21 to 23 of this Act may be in the form F of the said schedule.

(f) Notice to the inspector under section 26 or 27 of this Act may be according to such of the forms G and H of the said schedule as the case requires; and

(g) Notice to the inspector under section 33 of this Act may be in the form I of the said schedule. 1910-11, c. 41, s. 6 (2).

56. The Lieutenant-Governor in Council may from time to time whenever it is necessary so to do vary any of the forms in the schedule to this Act or may cause to be adopted any other form which he considers applicable to any class of cases for which a form has not been provided in the schedule to this Act.

57. The Lieutenant-Governor in Council may from time to time make such regulations not inconsistent with this Act as are necessary for giving effect to its provisions.



## SCHEDULE A.

## (Section 2.)

|   |  |
|---|--|
| Abattoirs.                                  | Knitting machine factories.                    |
| Agricultural implement factories.           | Laundries.                                     |
| Bakehouses and bakeshops.                   | Laundry, bluing and washing crystal factories. |
| Baking powder and yeast factories.          | Lithographers' workshops.                      |
| Barrel factories.                           | Locomotive works.                              |
| Bicycle factories.                          | Machine shops.                                 |
| Biscuit factories.                          | Marble works.                                  |
| Blanket factories.                          | Matting factories.                             |
| Boiler factories.                           | Mattress factories.                            |
| Bookbinding factories.                      | Meat packing establishments.                   |
| Boot and shoe factories.                    | Metallic factories.                            |
| Box factories.                              | Millinery shops.                               |
| Brass foundries.                            | Oil refineries.                                |
| Breweries.                                  | Ornamental moulding factories.                 |
| Brick factories.                            | Paint works.                                   |
| Broom factories.                            | Paper bag factories.                           |
| Brush factories.                            | Paper box factories.                           |
| Canning factories.                          | Paper and pulp mills.                          |
| Car shops.                                  | Paraffin factories.                            |
| Carpet factories.                           | Patent fertilizer factories.                   |
| Carriage factories.                         | Patent medicine factories.                     |
| Carriage goods (iron) factories.            | Picture frameworks.                            |
| Carriage woodwork factories.                | Planing mills.                                 |
| Cartridge factories.                        | Plated metal works.                            |
| Cement factories.                           | Potteries.                                     |
| Chemical works.                             | Printing and publishing establishments.        |
| Cigar factories.                            | Pulp factories.                                |
| Clock factories.                            | Rag-sorting workshops.                         |
| Clothing factories.                         | Rolling mills.                                 |
| Coffin factories.                           | Rope works.                                    |
| Concentrated egg factories.                 | Saddlery hardware factories.                   |
| Confectionery factories.                    | Safe works.                                    |
| Coppers' workshops.                         | Salt drying works.                             |
| Cider factories.                            | Sash and door factories.                       |
| Distilleries.                               | Saw mills.                                     |
| Domestic utensils factories.                | Sewer pipe factories.                          |
| Dressmaking establishments.                 | Sewing machine factories.                      |
| Dress shield factories.                     | Shirt factories.                               |
| Dye works.                                  | Show case factories.                           |
| Edge tool factories.                        | Skate works.                                   |
| Electric machinery factories.               | Soap works.                                    |
| Electrotype foundries.                      | Soda water factories.                          |
| Elevators (grain).                          | Stained glass factories.                       |
| Envelope factories.                         | Starch factories.                              |
| Extracts and essential oil factories.       | Steel wire factories.                          |
| Felt factories.                             | Straw works.                                   |
| Flax mills.                                 | Sugar refineries.                              |
| Foundries.                                  | Syrup factories.                               |
| Fruit desiccating factories.                | Tailor shops.                                  |
| Furniture factories.                        | Tanneries.                                     |
| Furriers' workshops.                        | Tin box factories.                             |
| Galvanized and pressed iron-work factories. | Tobacco factories.                             |
| Gun and small arm factories.                | Trunk factories.                               |
| Hair cloth factories.                       | Tub and pail factories.                        |
| Hames factories.                            | Type foundries.                                |
| Harness and leather factories.              | Vinegar works.                                 |
| Hosiery factories.                          | Wagon and sleigh factories.                    |
| Iron bridge works.                          | Window shade factories.                        |
| Jams, jellies and pickle works.             | Woollen factories.                             |
| Jewellery factories.                        |  |
| Knitting factories.                         |  |

(Sections 21, 22, 23 and 55.)

To.....

1. Name of person injured (or killed),
2. Factory in which accident happened,
3. Date of accident,
4. Age of person injured (or killed),
5. Residing on \_\_\_\_\_ street,
6. Cause of injury (or death),
7. Extent of injury,
8. Where injured or killed person sent,

9. Remarks.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Signature of Employer or Agent.

(Forms A-E and G-I omitted).

Chapter 22 with amendments.—1. This Act may be cited as The Steam Boilers Act.

2. In this Act unless the context otherwise requires:

(1) "Boiler" does not include boilers used for heating water for domestic purposes or generating steam solely for heating private dwelling houses which carry less than fifteen pounds pressure or railway locomotives belonging to and operated by a railway company incorporated under a Dominion charter or steamboat boilers but means and includes steam heating boilers over twenty horse-power in public buildings, office blocks, stores, hotels, apartment blocks where there are more than two families living or other buildings used for public purposes or in which the public from time to time congregate and also includes all other steam boilers or battery of boilers and every part thereof or thing connected therewith and all apparatus and things attached to or used in connection with any such boiler; 1912-13, c. 10, s. 1.

(2) "Owner" means and includes any person, firm or corporation the owner or lessee of a boiler and the manager or other head officer in charge of the business of any such firm or corporation;

(3) "Engineer" means any person having charge of or operating a steam boiler and the steam engine connected therewith under the provisions of this Act;

(4) "Person" means any male over eighteen years of age;

(5) "Minister" means the Minister of Public Works for Saskatchewan;

(6) "Inspector" means the provincial chief inspector of steam boilers or an inspector of steam boilers appointed under the provisions of this Act; 1912-13, c. 10, s. 2.

(7) "Inspection certificate" means the annual certificate of the inspection of any boiler issued by an inspector;

(8) "Certificate" means the interim provisional or final certificate of qualification issued to any engineer under the provisions of this Act;

(9) "Department" means the Department of Public Works for Saskatchewan.

3. The Lieutenant-Governor in Council may appoint an inspector or inspectors of steam boilers for Saskatchewan for the purpose of carrying out the provisions of this Act and may fix the remuneration to be paid such chief inspector or inspectors.

(2) No person shall be appointed an inspector unless he is a British subject, has had at least four years' experience as a practical machinist or boilermaker, is the holder of a Saskatchewan first-class engineer's certificate and has passed a satisfactory examination before a board of examiners composed of inspectors or such other persons as the minister may direct. 1912-13, c. 10, s. 3.

4. No person holding the office of inspector under the provisions of this Act shall be either directly or indirectly interested in the sale of boilers or steam machinery.

5. Every inspector appointed under the provisions of this Act shall before entering upon the performance of his duties take and subscribe an oath that he will faithfully and impartially perform the duties of his office.

6. For the purpose of seeing that the provisions of this Act are complied with any of the inspectors appointed under this Act may at any reasonable hour enter upon any lands or into any building where any steam boiler is operated.

7. Any person interfering with or obstructing any inspector in the performance of his duties under this Act shall be guilty of an offence and liable on summary conviction to a penalty not exceeding \$50.

8. Every inspector shall keep a true record of all boilers inspected and all repairs ordered by him, of all condemned by him as unsafe, of all accidents to boilers in his district whether by explosion or otherwise, and of all casualties in connection with the operation of boilers in his district.

9. Every inspector shall render annually on or before the last day of April in each year a concise report to the minister of all inspections made by him during the preceding year and of all accidents and casualties that may have happened connected with the operation of steam boilers within his district. 1913, c. 26, s. 1.

10. Any inspector may by notice in writing signed by him require the attendance before him at a time and place to be named in such notice of any person; and may examine such person on oath regarding any matter connected with the inspection or operation of any boiler or any accident thereto.

(2) Any person willfully neglecting or refusing in any way to comply with the notice of the inspector or to be examined as aforesaid shall be guilty of an offence and liable on summary conviction thereof to a fine of \$25 and on non-payment of such fine forthwith after conviction to imprisonment for one month.

#### Inspection of Boilers.

11. Every boiler in the province shall be inspected at least once in each calendar year by an inspector at such time as the inspector may see fit.

(2) If the owner of any boiler proves to the satisfaction of the inspector that his boiler has not been operated since the date of the previous inspection and is in as good condition as when inspected the inspector may issue a new inspection certificate without inspecting the boiler and may remit the fee for inspection hereinafter provided for.

(3) In the case of boilers not exceeding twenty horse-power used for heating purposes in hotels, stores, office buildings, theatres, churches, apartment buildings or other buildings used for public purposes or in which the public from time to time congregate the inspector shall without fee lock and seal the pop safety valve on the boiler so as to permit of no greater steam pressure in the boiler than fifteen pounds to the square inch unless the owner desires to use a greater pressure in which case all the provisions of this Act in respect to the operation of steam boilers shall apply. 1912-13, c. 10, s. 4.

(4) The inspector shall upon the completion of his inspection stamp upon every boiler a number. 1912-13, c. 10, s. 5.

12. Upon completion of his inspection the inspector shall issue to the owner of the boiler an inspection certificate and the owner shall pay the inspector for such inspection and the issue of such certificate a fee of \$5 for each boiler not exceeding 75 horse-power and a fee of \$10 for each boiler exceeding 75 horse-power:

Provided that the fee for the inspection of and the issue of an inspection certificate for a heating boiler carrying less than 15 pounds pressure but exceeding 20 horse-power shall be \$3. 1912-13, c. 10, s. 6.

(2) Any owner neglecting or refusing to pay the inspector such fee shall be guilty of a breach of this Act.

(3) Such inspection certificate shall be *prima facie* evidence of the due inspection of the boiler and of its fitness to be operated and the possession of such certificate shall authorize the operation of such boiler from the date of such certificate until its inspection in the next following year.

13. The inspection certificate shall be exposed in a conspicuous place in the boiler or engine room of every stationary boiler and shall be produced at any time by the owner or operator of any portable boiler upon demand of the inspector.

(2) Any owner refusing or neglecting to post up or produce the inspection certificate shall be guilty of an offence and liable upon summary conviction thereof to a penalty not exceeding \$25.

14. Any owner who operates or causes to be operated any boiler without being in possession of an inspection certificate shall be guilty of an offence and liable upon summary conviction thereof to a penalty of not less than \$25 and not more than \$100:

Provided that any owner of a portable boiler which has not been inspected within twelve months who has notified an inspector or the minister by registered letter of his intention to operate such boiler may operate such boiler until an inspection is made without being deemed guilty of a breach of this Act. 1912-13, c. 10, s. 7.

15. No boiler which has been in use for two or more seasons shall be sold or exchanged for subsequent use as a boiler unless it is accompanied by an inspection certificate issued within one year next preceding the date of such sale or exchange.

(2) Nothing in the foregoing subsection shall affect any arrangement that may be made between a manufacturer and a purchaser in respect of an exchange of an old boiler in part payment for a new one or the retaking possession of a boiler under a lien. 1912-13, c. 10, s. 8.

(3) Any person, company or agent who sells or exchanges a boiler shall within thirty days after such sale or exchange notify the minister in writing by registered mail of such sale or exchange stating the name and address of the person to whom such boiler has been sold or exchanged and shall in case such boiler has been inspected by an inspector from and after the twenty-eighth day of February, 1907, state the number stamped on such boiler at such inspection by the inspector.

16. Any boiler declared to be unsafe by an inspector shall not be used until such repairs as are ordered by the inspector have been made and the certificate required hereunder duly issued; and any person operating a boiler declared to be unsafe by an inspector before the repairs ordered by the inspector are completed and the certificate issued shall be guilty of an offence and upon summary conviction thereof liable to a penalty of \$50.

17. Inspectors shall have the right at all reasonable hours to examine boilers in course of construction or undergoing repair and to refuse to grant a certificate of inspection for any boiler found to be improperly constructed or repaired or of which permission to make such inspection has been refused.

(2) In order to satisfy himself as to the thickness of the plate or its internal condition the inspector may cut holes or may order holes to be cut in the same and in the latter case the owner shall forthwith see that such orders are complied with.

18. The owner or operator of any steam boiler shall allow the inspector free access to the same; and shall furnish water and fill the boiler to permit of the hydrostatic test being made and when necessary shall remove any jacket or covering from the boiler as directed by the inspector; he shall also assist the inspector in making his inspection and shall point out any defect that he may know of or believe to exist in the boiler or the machinery connected therewith.

(2) Before a stationary boiler is subjected to the hydrostatic test the owner or operator shall see that it is opened for inspection, the man hole and hand hole plates removed, the flues cleaned and all soot removed; and in the case of a portable boiler the owner or operator shall see that the furnace grates and straw burners are taken out and the fire box thoroughly cleaned.

(3) Should any owner refuse or neglect to have the above provisions complied with the inspector may have the work done at the expense of the owner.

19. Every new boiler sold or exchanged for use within Saskatchewan from and after the first day of January, 1911, shall be constructed in accordance with specifications set forth in the regulations issued by the department.<sup>1</sup>

(2) For the purpose of rating boilers in accordance with this Act the standard shall be one horse power for each twelve feet of heating surface on all stationary return tubular and water tube boilers, or for each nine square feet of heating surface on vertical boilers, or on boilers of locomotive, or marine type. 1913, c. 26, s. 2.

(3) The fee for the examination of such specifications and blue prints as may be required under foregoing regulations shall be such as is fixed by the minister from time to time.

20. Every steam boiler shall be supplied with a fusible plug of good Banca tin inserted in the flues or other portion of the boiler exposed to heat from the furnace when the water therein falls below the limit allowed by the regulations prescribed by the minister. 1913, c. 26, s. 3.

(2) Any person inserting a solid plug in place of the fusible plug referred to in the preceding clause or who otherwise tampers with the fusible plug in such manner as to render it inoperative in case of low water or any person who operates or being the owner allows to be operated a boiler not provided with an efficient steam gauge shall be guilty of an offence and liable on summary conviction thereof to a penalty of not less than \$10 and not more than \$50 and if the person found guilty of such offence is an engineer his certificate may be suspended or cancelled at the discretion of the minister. 1912-13, c. 10, s. 9.

21. Every boiler shall be provided with a lock pop safety valve of approved make which shall be set by the inspector at the time of his inspection and properly locked and sealed.

(2) Any person removing, destroying or in any way interfering with the lock or sealing device in any lock pop safety valve after it has been locked and sealed by an inspector shall be guilty of an offence and liable upon summary conviction thereof to a penalty of \$50.

<sup>1</sup> The regulations issued by the department contain specifications respecting the design, material, workmanship and fittings to be used in the construction of boilers. The regulations also contain certain supplementary clauses for the guidance of inspectors.

22. On the occurrence of an explosion of any boiler notice thereof shall be sent at once by telegraph to the minister by the owner or by some person acting on his behalf stating the precise locality as well as the number of persons killed or injured; and after the explosion of any such boiler no part or parts of the same shall without the written permission of an inspector be removed or their positions altered by any person except to rescue injured persons or to remove the bodies of persons killed.

(2) Any person neglecting or violating any of the provisions of this section shall be guilty of an offence and liable on summary conviction thereof to a fine of not less than \$50 and not more than \$100 or to imprisonment for a term not exceeding three months.

(3) On receipt of any report mentioned in subsection (1) of this section the minister shall cause a full investigation to be made as to the cause and circumstances of such explosion. 1912-13, c. 10, s. 10.

23. In inspecting boilers as herein provided the inspectors shall:

(a) Satisfy themselves by a thorough examination inside and out that the boilers are properly constructed and of good and suitable material;

(b) Subject the boiler to such hydrostatic pressure and hammer tests as may be necessary to determine the safe working pressure at which they may be operated;

(c) See that the openings for the passage of water and steam respectively and all pipes and tubes exposed to heat are of proper dimensions and free from obstruction;

(d) See that the flues are circular in form;

(e) Satisfy themselves that the friction (fire line) of the furnace is at least two inches below the prescribed minimum water line of the boiler;

(f) See that the arrangements for delivering the feed water are such that the boilers cannot be injured thereby;

(g) Satisfy themselves that such boilers and their steam connections may be safely employed without peril to life;

(h) See that the boilers are provided with lock pop safety valves of proper size and properly placed;

(i) See that the pop safety valve is properly adjusted so as to permit of no greater steam pressure in the boiler than the pressure allowed by the inspection certificate and that the valve is properly locked and sealed;

(j) See that the boiler is provided with a steam gauge of approved make and test and set such gauge so as to agree with standard gauge;

(k) See that the boiler is provided with a sufficient number of gauge cocks and a properly inserted fusible plug so placed as to fuse by the heat of the furnace whenever the water in the boiler falls below its prescribed limits;

(l) Satisfy themselves that the adequate and certain provision has been made for an ample supply of water to feed the boiler at all times. 1912-13, c. 10, s. 11.

(m) Satisfy themselves that means for blowing out are provided so that mud and sediment may be removed while the boiler is under steam;

(n) See that the boilers are provided with the necessary number of "man holes" of proper size to permit of the inside of boilers being examined and properly cleaned;

(o) See that the back brackets of stationary tubular boilers are fitted on rollers so as to allow free expansion and contraction of the said boilers to prevent accident due to failure of walls;

(p) See that proper railings are placed around belting, fly wheels, etc., in stationary plants.

24. Inspectors shall rate the working pressure of all boilers in accordance with the formulæ set forth in the regulations of the department taking into account the workmanship of the boiler, the material of which it is constructed and its condition at the time of inspection. 1912-13, c. 10, s. 12, part.

25. The hydrostatic test pressure to which a boiler may be subjected at the time of the inspection shall be in the ratio of one hundred and fifty pounds hydrostatic test pressure to one hundred pounds working pressure as determined by the preceding section. 1912-13, c. 10, s. 12, part.

26. In addition to the annual inspection of all boilers required by this Act it shall be the duty of each inspector to examine and inspect at any time any boilers which may be reported to him to be in an unsafe condition and to notify in writing the owner or person using such boiler to make such repairs as he may deem necessary in order to render such boiler serviceable and safe for use.

#### Engineers.

27. Any one not holding a final provisional or interim certificate of qualification as an engineer or a permit under this Act who at any time operates any steam boiler or is in charge of any steam boiler while in operation whether as owner or as engineer shall be liable on summary conviction to a penalty of not less than \$5 and not more than \$50;

Provided that heating boilers not exceeding forty horse power and carrying not more than fifteen pounds steam pressure may be operated by any person without a certificate of qualification. 1912-13, c. 10, s. 13.

28. Any person who holds a certificate of qualification as an engineer from any incorporated body authorised to grant such certificates of qualification for operating steam boilers and engines or from the Dominion or any provincial government or from any competent authority in any other portion of the British Empire or the United States shall be entitled upon making application to the minister accompanied by such evidence of his qualification as may be required by the minister and upon payment of the prescribed fee to obtain a certificate of qualification as an engineer in the class determined by the minister and to be registered under the provisions of this Act.

29. Any person who produces a certificate of uniform good conduct and sobriety from the owner or owners by whom he has been employed or from some other reliable person and shows to the satisfaction of the minister that he has had at least one year's or three threshing seasons' experience in the operation of a steam boiler or boilers or at least three years' apprenticeship in an establishment for the manufacture of steam engines or boilers and that he has sufficient knowledge of the theory and practice of operating a steam boiler or receives a certificate of an inspector certifying that he has been examined in the theory and practice of operating a steam boiler and found duly qualified may upon payment of the prescribed fee be granted a provisional certificate of qualification valid for a period of one year from the date thereof. 1912-13, c. 10, s. 14.

(2) The minister may upon the recommendation of an inspector grant a provisional certificate valid for a period of one year from its date to any person who has submitted to an examination in accordance with the provisions of section 32 but has failed to receive from such inspector a recommendation for a final certificate of qualification.

(3) Any holder of a provisional certificate of qualification may secure another certificate of the same class upon payment of the prescribed fee and upon the presentation of a recommendation satisfactory to the minister from an owner by whom he has been employed while holding such certificate and if he is unable to secure such recommendation the inspector may make an investigation and upon his recommendation another provisional certificate may be granted.

(4) Any holder of a provisional certificate of qualification issued under this Act may operate a boiler of forty horse power and no more.

(5) A fireman's certificate may be issued to any person who satisfies an inspector that he has sufficient knowledge and experience to operate heating boilers on payment of a fee of \$2 which certificate shall entitle the holder to operate heating boilers exceeding 40 horse power but working at a pressure not exceeding 15 pounds per square inch for a period of one year from the date of issue. 1912-13, c. 10, s. 15.

(6) A fireman's certificate may be issued to any person who satisfies an inspector that he has sufficient knowledge and experience to operate high pressure heating boilers, on payment of a fee of \$2, which certificate shall entitle the holder for a period of one year from date of issue to operate steam boilers not exceeding 20 horse power, used for heating purposes only and carrying a steam pressure exceeding fifteen pounds per square inch. 1913, c. 26, s. 4.

30. Before issuing a recommendation for the registration of and issue of a final certificate the inspector shall thoroughly examine the candidate as to his knowledge of the construction, care and operation of stationary steam boilers and engines and shall satisfy himself of his competency.

31. The examination of the holders of the provisional certificates of qualification provided for by section 29 of this Act or of any person desiring to qualify as hereinafter provided the fees payable for each grade of examination and the issue of certificates of such candidates as may pass such examination shall be in accordance with such regulations as may from time to time be prescribed by the minister.

(2) Final certificates issued under the provisions of this Act shall be divided into four classes, namely, first, second and third class engineer's certificates, and traction engineer's certificates. 1913, c. 26, s. 5, part.

(3) Any person who holds or has held a provisional certificate and since receiving such certificate has operated a steam engine for one threshing season or one ploughing season or who can prove to the satisfaction of the minister he has had extensive experience as an operator of traction, portable or semiportable engines may be allowed to write for a traction engineer's certificate:

(a) Any person who holds or has held a provisional or traction engineer's certificate and since receiving such certificate has fired a stationary steam boiler or operated a stationary engine for a period of not less than three months or who can prove to the satisfaction of the minister that he has operated a stationary boiler and engine for a period of not less than twelve months or that he has served two years in a workshop employed on the manufacture or repairing of engines or boilers and has fired a stationary boiler for a further period of six months may be allowed to write for a third-class certificate. 1913, c. 26, s. 5, part.

(4) Any person who holds a third-class certificate and since receiving such certificate has operated a stationary steam boiler and engine of not less than 35 horse power

in capacity or acted as assistant in the operation of a steam boiler of not less than 100 horse power in capacity for a period of not less than twelve months, or who can prove to the satisfaction of the minister that he has operated a stationary boiler and engine of not less than 50 horse power in capacity for a period of not less than four years, or that he has served three years in a work shop employed in the manufacture or repairing of steam engines or boilers, and that he has operated a steam boiler and engine of more than 50 horse power in capacity or acted as assistant in the operation of a steam boiler and engine of not less than 100 horse power capacity for a period of twelve months, may be allowed to write for a second-class certificate. 1913, c. 26, s. 5, part.

(5) Any person who holds a second-class certificate and since receiving such certificate has operated a steam engine and boiler of not less than 100 horse power in capacity, or acted as assistant in the operation of a steam engine and boiler or battery of boilers, of not less than 300 horse power for a further period of twelve months, or who can prove to the satisfaction of the minister that he has operated a steam engine and boiler of not less than 100 horse power capacity for a period of not less than five years, or that he has served three years in a workshop employed on the manufacture or repairing of engines or boilers, and has operated an engine and boiler of not less than 100 horse power capacity, or acted as assistant in the operation of a steam boiler and engine or battery of boilers of not less than 300 horse power capacity in the aggregate for a further period of twelve months, may be allowed to write for a first-class certificate. 1913, c. 26, s. 5, part.

(6) No person shall write for a first or second-class certificate unless he is of the full age of twenty-one years nor for a third-class certificate unless he is of the full age of eighteen years.

(7) Any person who fails at an examination for a final certificate shall before presenting himself for re-examination serve three months or one threshing season as chief or assistant engineer according to the requirements of this section and shall produce a statement from the owner by whom he was employed during that time showing that his services were satisfactory.

32. A traction engineer's certificate shall be issued to every candidate for such certificate who receives 40 per cent of the marks obtainable on the examination paper written on by him, and he shall while holding such certificate be allowed to have sole charge of any boiler of not more than 50 horse power, or may act as assistant in the operation of a boiler of not more than 100 horse power provided that the holder of a first, second or third-class certificate is in actual charge of such boiler.

(2) A third class certificate shall be issued to every candidate for such certificate who receives 50 per cent of the marks obtainable on the examination paper written on by him, and he shall while holding such certificate be allowed to have sole charge of any boiler of not more than 100 horse power, or may act as assistant in the operation of a boiler or boilers of a total capacity of not more than 300 horse power provided that the holder of a first or second-class certificate is in actual charge of such boiler or boilers.

(3) A second-class certificate shall be issued to every candidate for such certificate who receives 50 per cent of the marks obtainable on the examination paper written on by him, and he shall while holding such certificate be allowed to have sole charge of any boiler or boilers of a total capacity of not more than 300 horse power, or may act as assistant in the operation of a boiler or boilers of higher capacity provided that the holder of a first-class certificate is in actual charge of such boiler or boilers.

(4) A first-class certificate shall be issued to every candidate for such certificate, who receives 60 per cent of the marks obtainable on the examination paper written on by him, and he shall while holding such certificate be allowed to have charge of boilers of any capacity.

(5) If a candidate for a first or second-class certificate receives less than a minimum number of marks required to obtain such certificate but receives not less than 35 per cent of the marks obtainable, he may be granted a second or third-class engineer's certificate as the case may be if not already in possession of such certificate. 1913, c. 26, s. 6.

33. If for any reason a candidate for final engineer's certificate is unable to write legibly the inspector may employ an amanuensis whose services shall be paid for by the candidate and in such case the inspector shall make statement in form A in the schedule of this Act and the amanuensis shall make declaration in form B in the schedule to this Act.

(2) For any candidate for an engineer's certificate who fails to understand the English language the inspector may employ an interpreter whose services shall be paid for by the candidate; and in such case the inspector shall make statement in form C in the schedule to this Act and the interpreter shall make declaration in form D in the schedule of this Act.

(3) When a candidate for a third-class or traction engineer's certificate is illiterate or fails to understand the English language the inspector may supplement the written



examination by an oral examination and may allow the candidate for his answers not more than 20 per cent of the maximum number of marks obtainable on the examination paper written on by the candidate. 1912-13, c. 10, s. 16; 1913, c. 26, s. 7.

34. Any candidate who considers he has been unfairly dealt with by any inspector may appeal in writing to the minister setting forth his grievance; and the minister shall at once cause such charge to be investigated and shall give a decision in the matter which shall be final.

35. Every person holding a certificate under this Act shall expose it in some conspicuous place in the engine or boiler room in which he is employed or cause it to be attached to the engine or boiler of which he is in charge; and in default shall be liable on summary conviction to a penalty of not less than \$5 and not more than \$20.

(2) If such person be employed in charge of a portable engine and boiler he shall produce his certificate for inspection on being required so to do by an inspector, constable or peace officer.

(3) The absence of such certificate or its non-production on demand shall be *prima facie* evidence that the person operating the engine or boiler has no certificate.

36. Any person other than those mentioned in sections 28, 29 and subsection (3) of section 31 of this Act who may desire to qualify for registration and to obtain a certificate entitling him to operate steam boilers and engines connected therewith in the province shall serve twelve months or three threshing seasons as assistant to the holder of a certificate issued in accordance with the provisions of this Act and at the expiration of such term shall pass an examination as heretofore provided in this Act.

(2) Before being entitled to such examination the said assistant shall file with the inspector satisfactory evidence as to the length and nature of such service.

37. When an inspector issues a recommendation for a final certificate under this Act he may grant an interim certificate to the candidate for a period of thirty days pending receipt of certificate from the department.

38. In case any owner of a steam boiler shows to the satisfaction of an inspector that he is unable by some unforeseen occurrence to immediately secure the services of a duly qualified person the inspector may grant a permit to any person who produces satisfactory evidence of good conduct and sobriety and knowledge of operating steam boilers to operate such boiler for a period of thirty days from the date of such permit and in such case no penalty shall be incurred by reason of the holder of such permit operating such steam boiler during the period covered thereby.

(2) The fee for the issue of a permit shall be such as is prescribed from time to time by regulations of the minister.

39. Any one who employs a person to operate a steam boiler who has not a certificate or permit under this Act shall be guilty of a breach of the provisions of this Act.

40. The minister may upon due cause being shown cancel any certificate issued under the provisions of this Act.

41. The minister may from time to time make such regulations and prescribe such forms as may be deemed necessary for the proper carrying into effect of the provisions of this Act.

42. The fees payable under this Act shall be paid into the general revenue fund.

43. Any person guilty of a breach of any of the provisions of this Act for which no provision is herein made shall on summary conviction thereof be liable to a penalty not exceeding \$50.

(Forms omitted.)

#### Inspection and Regulation of Coal Mines.

[Chapter 23, The Coal Mines Act, as amended by 1915, chapter 43, section 6, is replaced by The Mines Act, 1917, second session, chapter 10.]

#### Earnings of Married Women.

Chapter 45.—4. All the wages and personal earnings of a married woman whether married before or after the passing of this Act and any acquisitions therefrom and all proceeds or profits from any occupation or trade which she carries on separately from her husband or derived from the exercise of any literary, artistic or scientific skill and all investments of such wages, earnings, money or property as well as all property real or personal held and enjoyed by a married woman on the third day of April, 1907, or which shall thereafter be acquired by her shall be free from the debts or disposition of her husband and shall be held and enjoyed by her and disposed of without her husband's consent as fully and freely as if she were unmarried.

**Earnings of Minors—Suits for Wages.**

Chapter 52.—31. (13) Minors may sue for wages in the same way as if of full age.

**Workmen's Compensation.**

Chapter 52.—31. (14) It shall not be a good defence in law to any action against an employer or the successor or legal representative of an employer for damages for the injury or death of an employee of such employer that such injury or death resulted from the negligence of an employee engaged in a common employment with the injured employee any contract or agreement to the contrary notwithstanding.

**Wages as Preferred Claims—In Executions.**

Chapter 63 with amendment.—18. All persons employed by an execution debtor at the time of the seizure under which money has been levied upon any execution, and of which levy notice has been given as prescribed in paragraph (a) of section 3 of this Act, or within one month before such seizure, who, prior to the expiration of the time fixed for the distribution of such moneys under such seizure, shall have filed in the office of the sheriff their claims for wages or salary, with the particulars thereof proved by affidavit in form C in the schedule to this Act or to the like effect, shall, subject as hereinafter provided, be entitled to be paid out of the moneys so levied the amount of wages or salary due to them by such execution debtor, not exceeding three months' wages or salary, in priority to the claims of the other creditors of the execution debtor, and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims; such wages or salary to be for arrears only then owing or accrued, and not for any unearned portion. The provisions of this section shall apply to wages or salary, whether the employment in respect of which the same may be payable is by day, week, month or year:

Provided, however, that in the event of any such claim being received by him, the sheriff may act thereon and shall have the same right to interplead in respect thereof as if such claim had been made to moneys taken by him under execution. 1915, c. 43, s. 12.

**Sunday Labour.**

Chapter 69.—1. No merchant, tradesman, artificer, mechanic, workman, labourer or other person whatsoever shall on the Lord's Day sell or publicly show forth or expose or offer for sale or purchase any goods, chattels or other personal property or any real estate whatsoever, or do or exercise any worldly labour, business or trade of his ordinary calling; travelling or conveying travellers or His Majesty's mails, selling drugs and medicines and other works of necessity and works of charity only excepted.

4. Any person violating any of the provisions of this Act shall be guilty of an offence and upon summary conviction thereof be liable to a fine not exceeding \$100 and costs of prosecution.

**Railways—Definition of Terms.**

Chapter 75 with amendment.—2. In this Act and in the special Act incorporating any railway company to which this Act applies unless the context otherwise requires the expression:

(1) "Special Act" means any Act under which the company has authority to construct or operate a railway or which is enacted with special reference to such railway and includes all such Acts;

(6) "Minister" means the Minister of Railways for Saskatchewan;

(11) "Highway" means any public road, street, lane or other public way or communication;

(15) "The Railway" means the railway or street railway which by the special Act the company is authorized to construct or operate and includes all branches, sidings, stations, depots, wharves, rolling stock, equipment, stores, property (real or personal), and works connected therewith and also any railway bridge, tunnel or other structure which the company is authorized to construct. 1913, c. 33, s. 2.

(16) "Rolling Stock" means and includes any locomotive, engine, motor car, tender, snow plough, flanger and every description of car or of railway equipment designed for movement on its wheels over or upon the rails or tracks of the company;

(17) "Train" includes any engine, locomotive or other rolling stock;

(18) "Shareholder" means every subscriber to or holder of stock in the undertaking and shall extend to and include the personal representatives of the shareholder;

(19) "Inspecting engineer" means an engineer who is directed by the Lieutenant-Governor in Council or by the minister to examine any railway and includes two or more engineers when two or more are so directed;

### Railways—Application of Act.

Chapter 75.—3. The provisions of this Act shall apply to all railways hereafter authorized to be constructed by any special Act of the province and said provisions shall in so far as they are applicable to the undertaking and unless they are expressly varied or excepted therefrom by the special Act be incorporated with the special Act, form part thereof and be construed therewith as forming one Act.

4. Any section of this Act may by any special Act be excepted from incorporation therewith or may thereby be extended, limited or qualified, and it shall be sufficient for the purposes of this section to refer to any section of this Act by its number merely; and unless otherwise expressly provided in this Act where the provisions of this Act and of any special Act of the province relate to the same subject matter the provisions of the special Act shall be taken to override the provisions of this Act in so far as is necessary to give effect to such special Act.

### Telegraph Wires, etc., across Railways.

Chapter 75.—139. Subject to the provisions of subsections (2) and (3) of this section the company may construct and operate an electric telegraph line and a telephone line throughout and along the whole line of railway and the branches thereof or any part of the said railway or branches for the purposes of its undertaking.

Provided that no poles shall be erected in the construction of either of the said lines in or through any city, town or incorporated village without the consent of the council of the said city, town or village being first obtained by the company;

Provided also that such telegraph and telephone lines shall be used exclusively for the purposes of the business of the company.

(2) No lines or wires for telegraphs, telephones or the conveyance of light, heat, power or electricity shall be erected, placed or maintained across the railway without leave of the Minister.

### Railway Bridges, Tunnels, etc.

Chapter 75.—148. Every bridge, tunnel or other erection or structure over, through or under which any railway now or hereafter passes shall be so constructed and if need be be reconstructed or altered within such time as the Minister may order and shall thereafter be so maintained as to afford at all times an open and clear headway of at least seven feet between the top of the highest freight car used on the railway and the lowest beams, members or portions of that part of such bridge, tunnel, erection or structure, which is directly over the space liable to be traversed by such car in passing thereunder; but in no case shall the space between the rail level and such beams, members or portions of any such structure hereafter constructed be less than twenty-two feet six inches unless by leave of the Minister.

(2) If in any case it is necessary to raise, reconstruct, or alter any bridge, tunnel, erection or structure not owned by the company the Minister upon application of the company and upon notice to all parties interested or without any application may make such order allowing or requiring such raising, reconstruction or alteration upon such terms and conditions as to him shall appear just and proper and in the public interest.

(3) The Minister may exempt from the operation of this section any bridge, tunnel, erection or structure over, through or under which no trains are run except such as are equipped with air brakes.

(4) Every company or owner shall incur a penalty not exceeding \$50 for each day of wilful neglect, omission or refusal to obey the provisions of this section.

149. With respect to all bridges, tunnels, viaducts, trestles or other structures through, over or under which the company's trains are to pass the span or proposed span or spans or length of which exceeds eighteen feet the company shall not commence the construction or reconstruction of or any material alteration in any such bridge, viaduct, tunnel, trestle or other structure until leave therefor has been obtained from the Minister unless such construction, reconstruction or alteration is made in accordance with standard specifications and plans approved of by the Minister.

(2) Upon any application to the Minister for such leave the company shall submit to the Minister the detail plans, profiles, drawings and specifications of any such work proposed to be constructed and such other plans, profiles, drawings and specifications as the Minister may in any case or by regulation require.

### Fair Wages on Railways.

Chapter 75 with amendment.—150. In every case in which the Legislature grants financial aid by way of subsidy or guarantee towards the cost of railway construction all mechanics, labourers or other persons who perform labour in such construction or in the operation of the railway so constructed shall be paid such wages as are gen-

erally accepted as current for competent workmen in the district in which the work is being performed; and if there is no current rate in such district then a fair and reasonable rate; and in the event of a dispute arising as to what is the current or a fair and reasonable rate it shall be determined by the Minister whose decision shall be final. 1912, c. 42, s. 7.

### Inspection of Railways.

Chapter 75.—153. Whenever any complaint is made to the Minister or the Minister receives information that any railway or any portion thereof is dangerous to the public using the same from want of renewal or repair or insufficient or erroneous construction or from any other cause or whenever circumstances arise which in his opinion render it expedient the Minister may direct an inspecting engineer to examine the railway or any portion thereof; and upon the report of the inspecting engineer may order any repairs, renewal, reconstruction, alteration or new work, materials or equipment to be made, done or furnished by the company upon, in addition to or substitution for any portion of the railway which may from such report appear to the Minister necessary or proper and may order that until such repairs, renewals, reconstruction, alteration and work, materials or equipment are made, done and furnished to his satisfaction no such portion of the railway in respect of which such order is made shall be used or used otherwise than subject to such restrictions, conditions and terms as the Minister may in such order impose and the Minister may by such order condemn and thereby forbid further use of any rolling stock which from such report it may consider unfit to repair or use further.

(2) If after notice of any such order made by the Minister the company shall use any rolling stock after the same has been so condemned by the Minister or shall disobey or fail to comply with any order of the Minister made under this section the company shall for each act of disobedience forfeit to His Majesty the sum of \$1,000; and any person wilfully and knowingly aiding or abetting any such violation shall be guilty of an offence and on conviction thereof shall be liable to a penalty of not less than \$20 nor more than \$200.

154. If in the opinion of any inspecting engineer it is dangerous for any trains to pass over any railway or any portion thereof until alterations, substitutions or repairs are made thereon or that any of the rolling stock should be run or used the said engineer may by notice forthwith either forbid the running of any train over such railway or portion of railway or require that the same be run only at such times, under such conditions and with such precautions as he by notice specifies and he may forbid the running or using of any such rolling stock by serving upon the company owning, running or using such railway or any officer having the management or control of the running of trains on such railway a notice in writing to that effect with his reasons therefor in which he shall distinctly point out the defects or the nature of the danger to be apprehended; and for every act of noncompliance therewith such company shall forfeit to His Majesty the sum of \$1,000.

(2) The inspecting engineer shall forthwith report the same to the Minister who may either confirm, modify or disallow the act or order of such engineer and notice of such confirmation, modification or disallowance shall be duly given to the company.

155. No prosecution for any penalty under the last two preceding sections shall be instituted without the authority of the Minister first had and obtained.

### Operation of Trains—Safety Appliances.

Chapter 75 with amendment.—156. Every company shall provide and cause to be used on all trains modern and efficient apparatus, appliances and means:

(a) To provide immediate communication between the conductor while in any car of any passenger train and the engine driver;

(b) To check at will the speed of the train and bring the same safely to a standstill as expeditiously as possible and except under circumstances of sudden danger or emergency, without causing undue discomfort to passengers if any on the train including a power drive wheel brake and appliances for operating the train brake system upon the locomotive and having a sufficient number of cars in every train so equipped with power or train brakes so that the engineer on the locomotive drawing such train can control its speed or bring it to a stop in the quickest and best manner possible without requiring the brakemen to use the common hand brake for that purpose; and on all trains carrying passengers such system of brakes shall comply with the following requirements:

(i) The brakes shall be continuous and must be instantaneous in action and capable of being applied at will by the engine driver or any brakeman;

(ii) The brake must be self-applying in the event of any failure in the continuity of its action;

(c) To securely couple and connect the cars composing the train and to attach the engine to such train with couplers which couple automatically by impact and which can be uncoupled without the necessity of men going in between the ends of the cars.

(2) All box freight cars of the company built after the twenty-fifth day of May, 1906, shall be equipped with the following attachments for the security of railway employees:

(a) Outside ladders on two of the diagonally opposite ends and sides of each car projecting below the frame of the car with one step or rung of the ladder below the frame, the ladders being placed close to the ends and sides to which they are attached;

(b) Hand grips placed anglewise over the ladders of each box car and so arranged as to assist persons in climbing on the roof by means of the ladder.

(3) Every company shall adopt and use upon all its rolling stock such height of draw bars as the minister determines in accordance with any standard from time to time adopted by competent railway authorities.

(3a) The cars of every street railway shall be equipped with efficient and serviceable fender devices, headlights, gangs and sand boxes of approved design. Fenders shall not be used to carry advertising devices which may reduce their efficiency. 1913, c. 33, s. 11.

(3b) Heaters of approved type shall be used and the same shall be of sufficient capacity to keep the cars heated at a suitable temperature to be regulated as closely as possible to suit the condition of the weather and the comfort of passengers. Each car shall contain a standard thermometer appropriately placed to enable passengers to see that this provision is observed. 1913, c. 33, s. 12.

(4) Every company which fails to comply with any of the provisions of this section shall forfeit to His Majesty a sum not exceeding \$200 for every day during which such default continues and shall as well be liable to pay to all such persons as are injured by reason of the non-compliance with these provisions or to their representatives such damages as they are legally entitled to notwithstanding any agreement to the contrary with regard to any such person unless such agreement is conformable to the law of the province and is authorized by regulation of the minister.

Provided, however, that no proceedings shall be instituted to enforce or recover any forfeiture to His Majesty under this section without the consent of the minister first obtained.

157. The minister may upon application order that any apparatus or appliance specified in such order shall when used upon the train in the manner and under circumstances in such order specified be deemed sufficient compliance with the provisions of the last preceding section; but the minister shall not by such order allow any exception to or modification of the requirements of such section; but the minister may by general regulation or in any particular case on good cause shown from time to time extend the period within which such appliance shall be used.

(2) The minister shall endeavour to provide for uniformity in the construction of rolling stock to be used upon the railway and for a uniformity of rules for the operation and running of trains; and may make regulations designating the number of men to be employed upon trains or providing that coal shall be used on all locomotives instead of wood in any district and generally providing for the protection and safety of the public, of property and of the employees of the company with respect to the running and operation of trains by the company.

158. Every locomotive engine shall be equipped and maintained with a bell of at least thirty pounds weight and with a steam whistle and shall while in use be equipped with a proper headlight which shall be lighted half an hour before dark and kept lighted during darkness.

#### **Railway Employees to wear Badges.**

Chapter 75.—161. Every servant of the company employed in a passenger train or at a station for passengers shall wear upon his hat or cap a badge which shall indicate his office and he shall not without such badge be entitled to demand or receive from any passenger any fare or ticket or to exercise any of the powers of his office or meddle or interfere with any passenger or his baggage or property.

#### **Transportation of Explosives.**

[Chapter 75, sections 166 and 167, deals with the transportation of explosives on railways.]

#### **Negligence of Railway Employees.**

Chapter 75.—168. When any railway passes over any navigable water or canal by means of a draw or swing bridge which is subject to be opened for navigation every train shall before coming on or crossing over such bridge be brought to a full stop and

shall not proceed until a proper signal has been given for that purpose and in default the company shall be liable to a penalty not exceeding five hundred dollars; any employee failing to comply with the rules of the company as to compliance with the provisions of this section shall be liable to the like penalty or to six months' imprisonment or to both.

(2) Wherever there is adopted or in use on any railway at any such bridge an interlocking switch and signal system or other device which in the opinion of the minister renders it safe to permit engines and trains to pass over such bridge without being brought to a stop the minister may by order permit engines and trains to pass over such bridge without stopping under such regulations as to speed and other matters as the minister deems proper.

169. When any train is approaching a highway crossing at rail level (except within the limits of cities or towns where the municipal authority may pass bylaws prohibiting the same) the engine whistle shall be sounded at least eighty rods before reaching such crossing and then the bell shall be rung continuously until the engine has crossed such highway and the company shall for each neglect to comply with the provisions of this section incur a penalty of \$20 and shall also be liable for all damage sustained by any person by reason of such neglect; and every employee of the company who neglects to comply with this section shall for each offence be subject to a like penalty.

(2) And for the better compliance with the provisions of this section the company shall erect and maintain on its right of way and at points eighty rods on each side of all highway crossings, whistle posts, which shall be painted white and shall be not less than six feet high and on which shall be painted with black paint the letter "W" and such letter shall be not less than ten inches in length and the company shall also equip each of its engines with an automatic bell ringer.

174. Whenever any railway crosses any highway at rail level the company shall not nor shall its officers, agent or employees wilfully permit any engine, tender or car or any portion thereof to stand on any part of such highway for a longer period than five minutes at one time or in shunting to obstruct public traffic for a longer period than five minutes at any one time.

(2) In every case of a violation of this section every such officer, agent or employee who has directly under or subject to his control, management or direction any engine, tender or car which or any portion of which is allowed to stand on such highway longer than the time specified in this section is liable on summary conviction to a penalty not exceeding \$50 and the company is also liable for each such violation to a like penalty:

Provided always that if such alleged violation is in the opinion of the court excusable the action for the penalty may be dismissed and costs shall be in the discretion of the court.

#### **Safety Provisions—Packing.**

Chapter 75.—175. In this section the expression "packing" means a packing of wood or metal or some equally substantial and solid material of not less than two inches in thickness and which where by this section any space is required to be filled in shall extend to within one and a half inches of the crown of the rails in use on any such railway shall be neatly fitted so as to come against the web of such rails and shall be well and solidly fastened to the ties on which such rails are laid.

(2) The spaces behind and in front of every railway frog or crossing and between the fixed rails of every switch where such spaces are less than four inches in width shall be filled with packing up to the under side of the head of the rail.

(3) The spaces between any wing rail and any railway frog and between any guard rail and the track rail alongside of it shall be filled with packing at their splayed ends so that the whole splay shall be so filled where the width of the space between the rails is less than four inches; such packing not to reach higher than the under side of the head rail:

Provided, however, that the minister may allow the filling and packing mentioned in this section to be left out from the month of December to the month of April in each year, both months included, or between any such dates as the minister by regulation or in any particular case determines.

#### **Accidents on Railways.**

Chapter 75.—180. Every company shall as soon as possible and immediately after the head officers of the company have received information of the occurrence upon the railway belonging to such company of any accident attended with serious personal injury to any person using the railway or whereby any bridge, culvert, viaduct or tunnel on or of the railway has been broken or so damaged as to be impassable or unfit for immediate use give notice thereof with full particulars to the minister; and every company which wilfully and negligently omits to give such notice shall forfeit to His Majesty the sum of \$200 for every day during which the omission to give the same continues.

(2) The minister shall by regulation declare the manner and form in which such information and notice shall be given and the class of accidents to which the next preceding section shall apply and may declare any such information so given to be privileged and the minister may appoint such person or persons as he thinks fit to inquire into all matters and things which he deems likely to cause or prevent accidents and the causes of and the circumstances connected with any accident or casualty to life or property occurring on any railway and into all particulars relating thereto.

(3) The person or persons so appointed shall report fully in writing to the minister his or their doings and opinions on the matters respecting which he or they are appointed to inquire and the minister may act upon such report and may order the company to suspend or dismiss any employee of the company whom he may deem to have been negligent or wilful in respect of any such accident.

### Railways—Suits for Damages.

Chapter 75.—187. All actions or suits for indemnity for any damages or injury sustained by reason of the construction or operation of the railway shall be commenced within one year next after the time when such supposed damage is sustained or if there is continuation of damage within one year next after the doing or committing of such damage ceases and not afterwards; and the defendants may plead the general issue and give this Act and the special Act and the special matter in evidence at any trial to be had thereupon and may prove that the same was done in pursuance of and by the authority of this Act or of the special Act.

(2) Nothing in this section shall apply to any action brought against the company upon any breach of contract express or implied in the carriage of any traffic nor to any action against the company for damages under any section of this Act respecting tolls.

(3) No inspection had under this Act and nothing in this Act contained and nothing done or ordered or omitted to be done or ordered under or by virtue of the provisions of this Act shall relieve or be construed to relieve any company of or from any liability or responsibility resting upon it by law either towards His Majesty or towards any person or the wife, or husband, parent or child, executor or administrator, tutor or curator, heir or personal representative of any person for anything done or omitted to be done by such company or for any wrongful act, neglect or default, misfeasance, malfeasance or nonfeasance of such company or in any manner or way to lessen such liability or responsibility or in any way to weaken or diminish the liability or responsibility of any such company under the laws in force in the province.

### Liability of Employers for Injuries to Employees—Waivers.

Chapter 75 with amendment.—187a. No company owning or operating a railway or street railway in whole or in part in this province shall adopt or promulgate any rule or regulation for the government of its servants or employees, or make or enter into any contract or agreement with any person engaged in or about to engage in its service, in which such employee directly or indirectly promises or agrees to hold such company harmless on account of any injury he may receive by reason of any accident to, breakage, defect, or insufficiency in the cars, motors, locomotives or machinery or attachments thereto belonging, and any such rule, regulation, contract or agreement shall be void and of no effect.

(2) No such company shall demand, accept, require or enter into any contract or agreement with any person about to enter or in the employ of the company whereby such person agrees to surrender or waive any right to damages for personal injury or death against any such company thereafter arising and all such contracts and agreements shall be void.

(3) Every company violating or aiding in the violation of this section shall for each offence be liable to a penalty of not exceeding five hundred dollars to be recovered in any court of competent jurisdiction by any person suing therefor.

(4) No such company shall knowingly or negligently use or operate any car, motor or locomotive that is defective or any car, motor or locomotive upon which the machinery or attachments thereto belonging are in any manner defective. 1913, c. 33, s. 15, part.

### Protection of Railway Employees—Enclosed Vestibules.

Chapter 75 with amendment.—187e. All street cars shall be equipped with inclosed vestibules to protect the motorman from wind and weather; such vestibules shall be suitably heated when necessary, and shall be so arranged and maintained as not to permit of obstruction to the motorman's range of vision. 1913, c. 33, s. 15, part.



### Rules for Railway Employees.

Chapter 75.—188. The company may subject to the provisions and restrictions in this and in the special Act contained make by-laws, rules and regulations respecting:

(g) The employment and conduct of the officers and employees of the company.

189. All by-laws, rules and regulations whether made by the directors or the company shall be reduced to writing, be signed by the chairman or person presiding at the meeting at which they are adopted, have affixed thereto the common seal of the company and be kept in the office of the company.

190. All such by-laws, rules and regulations except such as are of a private or domestic nature and do not affect the public generally shall be submitted to the Lieutenant-Governor in Council for approval; the Lieutenant-Governor in Council having first obtained the report of the minister thereon which report it shall be the duty of the minister to make may sanction them or any part of them or any part thereof and may from time to time rescind the sanction of any such by-law, rule or regulation or any part thereof; except when so sanctioned no such by-law, rule or regulation shall have any force or effect.

191. (2) A printed copy of so much of any by-law, rule, or regulation as relates to the conduct of or affects the officers or employees of the company shall be given to every officer and employee of the company thereby affected.

192. Such by-laws, rules and regulations when so approved shall be binding upon and observed by all persons and shall be sufficient to justify all persons acting thereunder.

193. If the violation or nonobservance of any by-law, rule or regulation is attended with danger or annoyance to the public or hindrance to the company in the lawful use of the railway the company may summarily interfere using reasonable force if necessary to prevent such violation or to enforce observance without prejudice to any penalty incurred in respect thereof.

194. A copy of any by-law, rule or regulation certified as correct by the president, secretary or other executive officer of the company and bearing the seal of the company shall be evidence thereof in any court.

### Intoxication of Railway Employees.

Chapter 75.—207. Every person who is intoxicated while he is in charge of a locomotive engine or acting as the conductor of a car or train of cars shall be guilty of an offence against this Act.

208. Every person who sells, gives or barter any spirituous or intoxicating liquor to or with any servant or employee of any company while on duty is liable on summary conviction to a penalty not exceeding \$50 or to imprisonment with or without hard labour for a period not exceeding one month or to both.

209. Every officer or servant of and every person employed by the company who wilfully or negligently violates any of the provisions of this Act or any by-law, rule or regulation of the company lawfully made and enforced or any order or notice of the Lieutenant-Governor in Council or of the minister of which a copy has been delivered to him or which has been posted up or open to his inspection in some place where his work or his duties or any of them are to be performed if such violation causes injury to any person or to any property or exposes any person or any property to the risk of injury or renders such risk greater than it would have been without such violation although no actual injury occurs shall be guilty of an offence against this Act and shall in the discretion of the court before which the conviction is had and according as such court considers the offence proved to be more or less grave or the injury or risk of injury to persons or property to be more or less great be punished by fine or imprisonment or both, but no such fine shall exceed \$400 and no such imprisonment shall exceed the term of five years.

210. Such penalty shall belong to His Majesty for the public uses of the province.

211. The company may in all cases under the last three preceding sections pay the amount of the penalty and costs and recover the same from the offender or deduct it from his salary or pay.

### Returns of Railway Accidents.

Chapter 75.—217. The company shall within ten days after the first days of January and July in each and every year make to the minister under the oath of the president, secretary or superintendent of the company a true and particular return of all accidents and casualties (whether to persons or property) which have occurred on the railway of the company during the half year next preceding each of the said periods respectively setting forth:

(1) The causes and natures of such accidents and casualties;  
 (2) The points at which they occurred and whether by night or by day;  
 (3) The full text thereof and all particulars of the same;  
 and shall also at the same time return a true copy of the existing by-laws of the company and their rules and regulations for the management of the company and of the railway.

218. The minister may order and direct from time to time the form in which such returns shall be made.

219. All such returns relating to accidents made in pursuance of the provisions of this Act shall be privileged communications and shall not be evidence in any court whatsoever except to enforce the penalties for failure or neglect to furnish such returns as required by this Act.

223. If the company or officer, servant or agent thereof wilfully or negligently refuses to make the returns required by this Act or by the minister under the authority thereof when and as thereunto required by the minister or fails to make any such return to the utmost of its or his knowledge or means of knowledge the company and every such officer, servant or agent so in default shall severally be liable to a penalty not exceeding \$1,000.

224. If the company or any officer, servant or agent thereof wilfully or negligently makes any false returns or any false statement in any such return the company and any such officer, servant or agent shall be severally liable to a penalty not exceeding \$1,000 and such officer, servant or agent shall also on summary conviction be liable to imprisonment for any period not exceeding twelve months in the common jail of the district where such conviction is had.

### Safety Provisions on Railways.

Chapter 75.—231. The company shall provide and at all times maintain proper safety chains or other safety appliances between each of its engines and the accompanying tender sufficiently strong to withstand any usual strain which may be put upon the same by reason of the drawbar breaking; any company failing to comply with the provisions of this section shall in addition to any claims for damages to which it may be liable by reason of injury to any of its employees lawfully upon such engine or tender be liable to a penalty not exceeding \$500.

232. All engines of the company shall be equipped with dump ash pans to enable the engine men to empty ashes without the necessity of going under the engine; any company failing to comply with the provisions of this section shall in addition to any claims for damages by reason of injury to any engine man in the lawful pursuit of his duty be liable to a penalty not exceeding \$500.

233. Stock chutes, mail cranes and elevator spouts if maintained along the company's right of way shall not be maintained nearer than two feet from the side of the widest cab on any engine of the company; any company or person whose duty it is to observe the requirements of this section shall upon neglect or failure to do so in addition to any claims for damages by reason of injury to any of the company's employees lawfully in pursuit of his employment be liable to a penalty not exceeding \$500.

234. The company shall not operate on its railway any engine known as a "Mother Hubbard" engine, by which term is meant an engine with two separate cabs, one for the driver and the other for the fireman unless the company provides for the services of a third employee to be present in the driver's cab during all times when the same is operated.

235. The company shall not permit any person to have charge of any of its engines as a driver unless such person shall in addition to the qualifications required of the company's employees under the general rules of the company have had at least three years' experience as a locomotive fireman.

### Sunday Street Cars.

Chapter 75 with amendment.—236. No company or municipal corporation operating a street railway, tramway or electric railway shall operate the same or employ any person thereon on the first day of the week commonly called Sunday except for the purpose of keeping the track clear of snow or ice or for the purpose of doing other work of necessity. For every train or car run or operated in violation of this section the company or municipal corporation shall forfeit and pay the sum of \$400 to be recovered in any court having jurisdiction in civil cases for the amount by any person suing for the same under this section and for the purpose thereof. The action for the recovery of the said sum shall be brought before the court having jurisdiction as aforesaid in the place from which such train or car started or through which it passed or at which it stopped in the course of such operation. All moneys recovered under the provisions of this section shall be paid to the provincial treasurer and shall form part of the general revenue of Saskatchewan. 1910-11, c. 41, s. 3.

### Examination of Railway Employees—Colour Blindness.

Chapter 75 with amendment.—237. Every street car shall be in charge and under control of at least two competent men, a motorman and a conductor. 1913, c. 33, s. 16, part.

238. No person shall be employed as a motorman until he has been subjected to a thorough examination by an examiner or examiners as to his intelligence, habits, and physical ability.

(2) Should the applicant upon such examination prove to be qualified he shall before being appointed be placed under tuition in the shops and on the cars of the company, and when the examiner is satisfied as to the applicant's capability for the position of motorman he may be so appointed. If appointed the applicant shall so far as is reasonably possible first serve on the lines of least travel.

(3) The company shall pay for the services of the examiner. 1913, c. 33, s. 16 part.

239. No company shall employ any person in a position which requires him to distinguish form or colour signals unless within two years next preceding his appointment he has been examined for colour blindness and also as to his eyesight generally, by some competent person to be employed for the purpose by the company, and has received a certificate that he is not disqualified for such position by colour blindness or otherwise in respect of his eyesight.

(2) Nothing in this section contained shall prevent the company from continuing in its employment any employee having defective sight in cases where the same can be fully remedied by the use of glasses or by other means satisfactory to the examiner.

(3) The company shall cause such employees to be re-examined for colour blindness and otherwise in respect of their eyesight at least once in every two years. 1913, c. 33, s. 16, part.

### Wages as Preferred Claims—In Liquidations.

Chapter 78.—10. In distributing the assets of a company under the provisions of this Act the liquidator shall pay in priority to the claims of the ordinary or general creditors of the company the wages or salary of all persons other than directors in the employment of the company at the time of the making of the winding up resolution or order or within one month before the making thereof not exceeding three months' wages or salary and such persons shall be entitled to rank as ordinary or general creditors of the company for the residue, if any, of their claims.

### Employers to furnish Names of Employees to Assessor—Liability of Employers for Taxes of Employees.

[Chapter 85, The Town Act, is replaced by a new Act with the same title, chapter 19, 1916. Section 295 of the earlier Act is reproduced as section 394 in the Act of 1916, and reads as follows:—]

394. It shall be the duty of every person employing any other person in his trade, manufacture, business or calling, to give to the assessor on demand information concerning the names and places of residence of all persons employed by him whose wages, salary or remuneration exceed \$200 per annum. 1916, c. 19, s. 394.

[Sections 304 and 305 of the Revised Statutes, chapter 85, which provide for a poll tax of \$2 on every male resident of full age, with certain specified exceptions, and for the collection thereof, appear in the Act of 1916 as sections 402 and 403. The latter section reads as follows:—]

403. A poll tax may be collected in the same manner as other municipal taxes, or may be recovered on summary conviction with costs against the person neglecting or refusing to pay the same; and the person appointed to collect the tax may also demand the same from the employer of the person liable to pay it, and the employer shall deduct the same from the salary or wages which are then or shall first thereafter during the then current year become owing by him to the person liable to pay such poll tax, and shall pay the same as soon as the amount of the tax is earned by his said employee to the person appointed to collect it, and in default may on summary conviction be ordered to pay the same together with costs, and in default of payment to be imprisoned for a period not exceeding thirty days. 1916, c. 19, s. 403.

[Chapter 86, The Village Act, is replaced by a new Act with the same title, chapter 20, 1916. Section 183 of the earlier Act is reproduced as section 201 in the Act of 1916, and reads as follows:—]

201. It shall be the duty of every person employing any other person in his trade, manufacture, business or calling to give to the assessor on demand information concerning the names and places of residence of all persons employed by him whose wages, salary or remuneration exceed \$1,000 per annum. 1916, c. 20, s. 201.

### Sunday Street Cars.

[Chapter 87, The Rural Municipality Act, and amendments thereto are replaced by a new Act with the same title, 1917, first session, chapter 14. Section 198a added to the earlier Act, by 1914, chapter 15, section 21, deals with the question of operating street cars on Sunday, and appears as section 174 in the new Act.]

### Wages as Preferred Claims—In Assignments.

Chapter 142.—27. In case of an assignment under this Act the assignee shall pay in priority to the claims of the ordinary or general creditors of the person making the same the wages or salary of all persons in the employ of such person at the time of the making such assignment or within one month before the making thereof, not exceeding three months' wages or salary, such wages or salary to be for arrears only and not for any unearned portion; and such persons shall be entitled to rank as ordinary creditors for the residue, if any, of their claims for arrears of such wages or salary; the provisions of this section shall apply to wages or salary whether the employment in respect of which the same may be payable be by the day, week, month or year.

### Employment of Labour—General Provisions.

Chapter 419.—1. Every contract or hire of personal service shall be subject to the provisions of this Act and if such contract is for any period more than one year it shall be in writing and signed by the contracting parties.

2. Any person engaged, bound or hired whether as clerk, journeyman, apprentice, servant, labourer or otherwise howsoever, guilty of drunkenness or absenting himself by day or night without leave from his proper service or employment or refusing or neglecting to perform his just duties or to obey the lawful commands of his master or of dissipating his employer's property or effects shall be deemed guilty of a violation of his contract and upon summary conviction of one or more of the said violations forfeit and pay such sum of money not exceeding \$30 as to the justice or magistrate seems meet together with costs of prosecution; and in default of payment thereof forthwith shall be imprisoned for any period not exceeding one month unless the fine imposed and costs together with the costs of commitment and conveying such convicted person to the place of imprisonment be sooner paid.

3. Any justice upon oath of any employee, servant or labourer complaining against his master or employer concerning any nonpayment of wages (not exceeding exclusive of costs, the sum of \$100 the same having been first demanded) ill usage or improper dismissal by such master or employer may summon the master or employer to appear before him at a reasonable time to be stated in the summons and the justice shall examine into the matter of the complaint whether the master or employer appears or not; and upon due proof of the cause of complaint the justice may discharge the employee, servant or labourer from the service or employment of the master and may direct the payment to him of any wages found to be due (not exceeding exclusive of costs the sum of \$100 as aforesaid) together with costs of prosecution the same to be levied by distress and sale of the goods and chattels of such master or employer.

(2) In the event of the said justice determining that the employee, servant or labourer has been improperly dismissed from the service of the master or employer he may in addition to directing the payment to him of any wages found to be due (not exceeding exclusive of costs the sum of \$100 as aforesaid) direct such master or employer to pay such employee, servant or labourer such further amount as to him may seem reasonable but not exceeding in any event four weeks wages at the rate at which he was being paid by his master or employer when improperly dismissed as aforesaid together with the costs of prosecution the same to be levied by distress and sale of the goods and chattels of such master or employer.

4. Proceedings may be taken under this Act within three months after the engagement or employment has ceased or been terminated or within three months after the last instalment of wages under the agreement of hiring has become due whichever shall last happen.

5. The provisions of this Act shall be held to apply in Saskatchewan to contracts and agreements made at any place outside the same.

6. Nothing in this Act shall in any wise curtail, abridge or defeat any civil or other remedy for the recovery of wages or damages which employers or masters may have against servants or employees or which servants or employees may have against their masters or employees.

7. The term "master" or "employer" wherever used in this Act shall include a corporation as well as an individual or partnership.

### Mechanics' Liens.

Chapter 150 with amendments.—1. This Act may be cited as The Mechanics' Lien Act.

### Interpretation.

2. In this Act unless the context otherwise requires the expression:

(1) "Contractor" means a person contracting with or employed directly by the owner or his agent for the doing of work or placing or furnishing materials for any of the purposes mentioned in this Act;

(2) "Subcontractor" means a person not contracting with or employed directly by the owner or his agent for the purposes aforesaid but contracting with or employed by a contractor or under him by another subcontractor;

(3) "Owner" extends to and includes any person, firm, association, body corporate or politic having any interest or estate in the lands upon or in respect of which the work or service is done or materials are placed or furnished at whose request and upon whose credit or on whose behalf or with whose privity or consent or for whose benefit any such work or service is performed or materials are placed or furnished and all persons claiming under him or them whose rights are acquired after the work or service in respect of which the lien is claimed is commenced or the materials furnished have been commenced to be furnished;

(4) "Person" extends to and includes a body corporate or politic, a firm, a partnership or association;

(5) "Material" or "materials" includes every kind of movable property;

(6) "Wages" means money earned by a labourer for work done whether by time or as piece work;

(7) "Court" means the district court of the judicial district wherein the property in respect of which the lien is claimed is situated;

(8) "Judge" means a judge of the district court;

(9) "Clerk of the court" means the clerk of the district court;

(10) "Registrar" means the registrar of land titles for the land registration district within which the property in respect of which the lien is claimed, is situated.

### Lien, Person entitled to, Creation, Effect and Registration of.

3. Every agreement or bargain verbal or written, express or implied which may hereafter be entered into on the part of any workman, servant, labourer, mechanic or other person employed in any kind of manual labour intended to be dealt with in this Act by which it is agreed that this Act shall not apply or that the remedies provided by it shall not be available for the benefit of any person entering into such agreement is and shall be null and void and of no effect as against any such workman, servant, labourer, mechanic or other person.

4. Unless he signs an express agreement to the contrary and in that case subject to the provisions of section 3 any person who performs any work or service upon or in respect of or places or furnishes any materials to be used in the making, constructing, erecting, fitting, altering, improving or repairing of any erection, building, land, wharf, pier, bulkhead, bridge, trestlework or mine or the appurtenances to any of them for any owner, contractor or subcontractor shall by virtue thereof have a lien for the price of such work, service or materials upon the erection, building, wharf, pier, bulkhead, bridge, trestlework or mine or the appurtenances thereto and the lands occupied thereby or enjoyed therewith or upon or in respect of which the said service is performed or upon which such materials are placed or furnished to be used limited however in amount to the sum justly due to the person entitled to the lien and to the sum justly owing (except as hereinafter provided) by the owner.

5. Where work or service is done or materials are furnished upon or in respect of the lands of any married woman with the privity and consent of her husband he shall be conclusively presumed to be acting for himself so as to bind his own interest and also as the agent of such married woman for the purposes of this Act unless the person doing such work or service or furnishing such material shall have had actual notice to the contrary before doing such work or furnishing such materials.

6. No agreement shall be held to deprive anyone otherwise entitled to a lien under this Act and not a party to the agreement of the benefit of the lien but the lien shall attach notwithstanding such agreement.

7. The lien shall attach upon the estate or interest of the owner as defined by this Act in the erection, building, land, wharf, pier, bulkhead, bridge, trestlework or mine and the appurtenances thereto upon or in respect of which the work or service is performed or the materials placed or furnished to be used and the lands occupied thereby or enjoyed therewith.

(2) In cases where the estate or interest charged by the lien is leasehold the land itself may also with the consent of the owner thereof be subject to the said lien provided such consent is testified by the signature of such owner upon the claim of lien at the time of the filing thereof and duly verified.

(3) (Repealed by 1913, c. 38, s. 1).

8. Where any of the property upon which a lien is given by this Act is wholly or partly destroyed by fire any money received or receivable by reason of any insurance thereon by an owner or prior mortgagee or chargee shall take the place of the property so destroyed and shall be subject to the claims of all persons for liens to the same extent as if such moneys were realized by the sale of such property in an action to enforce a lien. 1915, c. 43, s. 27 (1).

9. Save as herein provided the lien shall not attach so as to make the owner liable for a greater sum than the sum payable by the owner to the contractor.

10. Save as herein provided where the lien is claimed by any other person than the contractor the amount which may be claimed in respect thereof shall be limited to the amount owing to the contractor or subcontractor or other person for whom the work or service has been done or the materials have been placed or furnished.

11. In all cases the person primarily liable upon any contract under or by virtue of which a lien may arise under the provisions of this Act shall as the work is done or materials furnished under the contract deduct from any payments to be made by him in respect of the contract and retain for a period of thirty days after the completion or abandonment of the contract twenty per cent of the value of the work, service and materials actually done, placed or furnished as mentioned in section 4 of this Act and such values shall be calculated on the basis of the price to be paid for the whole contract; and the liens created by this Act shall be a charge upon the amount directed to be retained by this section in favour of the subcontractors whose liens are derived under persons to whom such moneys so required to be retained are respectively payable.

(2) All payments up to eighty per cent of such value made in good faith by an owner to a contractor or a contractor to a subcontractor or by one subcontractor to another subcontractor before notice in writing of such lien given by the person claiming the lien to the owner, contractor or subcontractor, as the case may be, shall operate as a discharge *pro tanto* of the lien created by this Act.

(3) Payment of the percentage required to be retained under subsection (1) of this section may be validly made so as to discharge all liens or charges under this Act in respect thereof after the expiration of the said period of thirty days mentioned in subsection (1) of this section, unless in the meantime proceedings shall have been commenced under this Act to enforce any lien or charge against such percentage as provided by sections 23 and 24 of this Act.

12. In case an owner or contractor chooses to make payments to any person referred to in section 4 of this Act for or on account of any debts justly due to them for work or service done or for materials placed or furnished to be used as therein mentioned and shall forthwith give by letter notice in writing of such payment to the contractor or his agent or to the subcontractor or his agent, as the case may be, such payments shall as between the owner and the contractor or as between the owner and the subcontractor, as the case may be, be deemed to be payments to the contractor or the subcontractor, as the case may be, on his contract generally but not so as to affect the percentage to be retained by the owner as provided by section 11 of this Act.

13. The lien created by this Act shall have priority over all judgments, executions, assignments, attachments, garnishments and receiving orders recovered, issued or made after such lien arises and over all conveyances or mortgages registered after registration of such lien as in this Act provided. 1913, c. 38, s. 2.

(2) In case of an agreement for the purchase of land and the purchase money or part thereof is unpaid and no conveyance made to the purchaser the purchaser shall for the purposes of this Act and within the meaning thereof be deemed a mortgagor and the seller a mortgagee.

(3) Excepting where it is otherwise declared by this Act no person entitled to a lien on any property or to a charge on any moneys under this Act shall be entitled to any priority or preference over another person entitled to a lien or charge on such moneys or property under this Act and all lienholders except where it is otherwise declared by this Act shall rank *pari passu* for their several amounts and the proceeds of any sale shall subject as aforesaid be distributed among them *pro rata*.

14. Every mechanic or labourer whose lien is for wages shall to the extent of thirty days' wages have priority over all other liens derived through the same contractor or subcontractor to the extent of and on the twenty per cent of the contract price directed to be retained by section 11 of this Act to which the contractor or subcontractor through whom such lien is derived is entitled and all such mechanics and labourers shall rank thereon *pari passu*.

(2) Every wage earner shall be entitled to enforce a lien in respect of the contract not completely fulfilled.

(3) In case of the contract not having been completely fulfilled when the lien is claimed by wage earners the percentage aforesaid shall be calculated on the work done or materials furnished by the contractor or subcontractor by whom such wage earners are employed.

(4) Where the contractor or subcontractor makes default in completing his contract the percentage aforesaid shall not as against a wage earner claiming a lien under this Act be applied to the completion of the contract or for any other purpose by the owner or contractor nor to the payment of damages for the non-completion of the contract by the contractor or the subcontractor nor in payments or satisfaction of any claim of any kind against the contractor or subcontractor.

(5) Every device by any owner, contractor or subcontractor adopted to defeat the priority given to wage earners for their wages by this Act shall as respects such wage earners be null and void.

15. Nothing in this Act contained shall apply to make legal any payment made for the purposes of defeating or impairing a claim for a lien arising or existing under this Act and all such payments shall be taken to be null and void.

16. During the continuance of a lien no portion of the materials affected thereby shall be removed to the prejudice of the lien and any attempt at such a removal may be restrained on application to the court or to a judge having power to try an action to realize a lien under this Act.

(2) The court or judge to whom any such application is made may make such order as to the costs of and incidental to the application and order as he deems just.

(3) When any material is actually brought upon any land to be used in connection with such land for any of the purposes enumerated in section 4 of this Act the same shall not be subject to execution or other process to enforce any debt (other than for the purchase thereof) due by the person furnishing the same.

17. A claim for lien applicable to the case may be filed in the land titles office of the land registration district in which the land is situated and shall set out:—

(a) The name and residence of the person claiming the lien and of the owner of the property to be charged and of the person for whom and upon whose credit the work or service was or is to be done or materials furnished or placed and the date upon which the contract or service was completed the last material furnished or the last work done; or, where the claim is registered before the contract, service, furnishing of material or work, has been completed, the time or period within which the same was to be performed or completed. 1913, c. 38, s. 3.

(b) A short description of the work or service done or the materials furnished or placed or to be furnished or placed;

(c) The sum claimed as due or to become due;

(d) A description of the property to be charged;

(e) An address for service on the party claiming the lien.

(2) The claim may be in one of the forms given in the schedule to this Act and shall be verified by the affidavit of the person claiming the lien or of his agent or assignee having a personal knowledge of the matters required to be verified and the affidavit of the agent or assignee shall state that he has such knowledge.

18. A claim for lien may include claims against any number of properties and any number of persons claiming liens upon the same property may unite therein, but where more than one lien is included in one claim each lien shall be verified by affidavit as provided in section 17 of this Act.

19. A substantial compliance with sections 17 and 18 of this Act shall only be required and no lien shall be invalidated by reason of failure to comply with any of the requisites of the said sections unless in the opinion of the court or judge who has power to try an action under this Act the owner, contractor or subcontractor, mortgagee or other person, as the case may be, is prejudiced thereby and then only to the extent to which he is thereby prejudiced.

(2) Nothing in this section contained shall be construed as dispensing with filing of the lien required by this Act.

20. The registrar upon payment of the prescribed fee shall register the claim so that the same may appear as an incumbrance against the land therein described.

21. Where a claim is so filed the person entitled to the lien shall be deemed a purchaser *pro tanto*.

22. A claim for lien by a contractor or subcontractor may in cases not otherwise provided for be filed before or during the performance of the contract or within thirty days after the completion thereof.

(2) A claim for lien for materials may be filed before or during the furnishing or placing thereof or within thirty days after the furnishing or placing of the last material so furnished and placed.

(3) A claim for lien for services may be filed at any time during the performance of the service or within thirty days after the completion of the service.

(4) A claim for lien for wages may be filed at any time during the performance of the work for which such wages are claimed or within thirty days after the last day's work for which the lien is claimed.

(5) In the case of a contract which is under the supervision of an architect, engineer or other person upon whose certificate payments are to be made the claim for a lien



by a contractor may be filed within the time mentioned in subsection (1) of this section or within seven days after the said architect, engineer or other person has given his final certificate or has upon application to him by the contractor refused to give a final certificate.

#### Duration of Lien.

23. Every lien a claim for which is not duly filed under the provisions of this Act shall cease to exist at the expiration of the time hereinbefore limited for the filing thereof unless in the meantime an action is commenced to realize the claim or in which the claim may be realized under the provisions of this Act and a certificate thereof according to form 6 in the schedule hereto signed by the clerk of the court is duly filed in the land titles office of the land registration district wherein the property in respect of which the lien is claimed is situated:

Provided however that the failure to file such claim or to commence such action within the times mentioned in this and the preceding section shall not defeat such lien except as against intervening parties becoming entitled to a lien or charge upon such land whose claim with respect to said land is registered prior to the registration of such lien or as against an owner in respect of payments made in good faith to a contractor after the expiration of said period of thirty days and before any claim of lien is filed or notice thereof given to the owner. 1913, c. 38, s. 4.

24. Any person claiming any right, title or interest in and to any property in respect of which any claim of lien is filed as hereinbefore provided may at any time after thirty days have expired since the filing of such lien require the registrar to notify the lienholder by notice in writing in form 5 in the schedule to this Act forwarded by registered mail to the address for service of the said lienholder that unless an action to realize such claim or lien in which such claim may be realized be instituted and a certificate that such action has been so instituted which certificate shall be in form 6 of the schedule hereto and signed by the clerk of the court in which such action is so instituted be deposited in the said land titles office within thirty days from the date of such notice that such lien shall absolutely cease to exist; and if such action is not so instituted and the certificate aforesaid so filed within thirty days from the date of the mailing of such notice such lien shall thereupon absolutely cease to exist and the registrar shall vacate the registration thereof unless prior to the expiration of the said thirty days there be filed in the said land titles office an order of a judge extending the time for instituting such action.

#### Transmission of Lien.

25. In the event of the death of the lienholder his right of lien shall pass to his personal representatives and the right of a lienholder may be assigned by any instrument in writing.

#### Discharge and Vacating Lien.

26. A lien may be discharged by a receipt signed by the claimant or his agent duly authorized in writing acknowledging payment and verified by affidavit and filed with the registrar; such receipt shall be numbered and entered by the registrar like other instruments but need not be copied in any book; the fees shall be the same as for registering a claim of lien.

(2) Upon application the court or judge may receive security or payment into court in lieu of the amount of the claim and may thereupon vacate the filing of the lien.

(3) The court or such judge may vacate the said filing upon any other ground.

#### Effect of taking Security on Lien.

27. The taking of any security for or the acceptance of any promissory note for or the taking of any other acknowledgment of the claim or the giving of time for the payment of the claim or the taking of any proceedings for the recovery of the claim or the recovery of any personal judgment therefor shall not merge, waive, pay, satisfy, prejudice or destroy any lien created by this Act unless the lienholder agrees in writing that it shall have that effect.

#### Lienholder entitled to Information and Inspection of Contract.

28. Any lienholder may at any time demand from the owner or his agent the terms of the contract or agreement with the contractor for and in respect of which the work, services or materials is or are performed or furnished or placed and if such owner or his said agent shall not at the time of such demand or within a reasonable time thereafter inform the person making such demand of the terms of such contract or agreement or the amount due and unpaid upon such contract or agreement or shall intentionally, knowingly or falsely state the terms of said contract or agreement or the amount due

or unpaid thereon and if the person claiming the lien shall sustain loss by reason of such refusal or neglect or false statement the said owner shall be liable to him in an action therefor to the amount of such loss.

#### Power of Court to Order Inspection.

29. The court or a judge may on a summary application at any time before or after any action is commenced for the enforcement of such lien make an order for the owner or his agent to produce and allow any lienholder to inspect any such contract and may make such an order as to the costs of such application and order as may be just.

#### Enforcement of Liens, Procedure.

30. Notwithstanding anything contained in The Judicature Act and The District Courts Act all actions to realize under a lien irrespective of the amount involved or that the title to land is called in question shall be brought, tried and determined in the district court in the same manner and subject to the same right of appeal as ordinary actions in the court.

30a. It shall not be necessary to make any lienholders parties defendant to the action, but all lienholders served with the notice of trial shall for all purposes be deemed parties to the action. 1913, c. 38, s. 5, part.

30b. The party setting an action down for trial shall at least ten days before the opening of the sitting of the court at which the action is to be tried serve notice of trial in form 7 in the schedule of this Act, upon all lienholders who have filed their claims as required by this Act, or who are known to him; such service shall be personal, unless otherwise directed by a judge, who may direct in what manner the notice of trial may be served. 1913, c. 38, s. 5, part.

31. Any number of lienholders claiming liens on the same property may join in an action and any action brought by a lienholder shall be taken to be brought on behalf of all other lienholders on the property in question.

32. Upon the trial of any action to realize under a lien the judge shall decide all questions which arise therein or which are necessary to be tried in order to completely dispose of the action and to adjust the rights and liabilities of all parties concerned and shall take all accounts, make all inquiries and give all directions and do all other things necessary to try and otherwise finally dispose of the action and of all matters, questions and accounts arising in the action or at the trial and to adjust the rights and liabilities of and give all necessary relief to all parties concerned and shall embody all results in the judgment.

(2) The judge who tries the action may order that the estate or interest charged with the lien may be sold and when by the judgment a sale is directed of the estate or interest charged with the lien the judge who tries the action may direct the sale to take place at any time after judgment allowing however a reasonable time for advertising such sale and may make all necessary orders for the completion of the sale and vesting the property in the purchaser.

(3) The judge who tries the action may also direct the sale of any materials and authorize the removal of the same.

(4) Any lienholder who has not proved his claim at the trial of an action to enforce a lien on application to the judge who tried the action on such terms as to costs and otherwise as may be just may be let in to prove his claim at any time before the amount realized in the action for the satisfaction of liens has been distributed and where such a claim is proved and allowed the judge shall amend the judgment so as to include such claim therein.

(5) When a sale is held the judge shall direct to whom the moneys in court shall be paid and may add to the claim of the person conducting the sale his actual disbursements in connection therewith and where sufficient to satisfy the judgment and costs is not realized from the sale he shall certify the amount of the deficiency and the names of the persons with their amounts who are entitled to recover the same and the persons by the judgments adjudged to pay the same; and such persons shall be entitled to enforce the same by execution or otherwise as a judgment of the court.

33. When more actions than one are brought to realize liens in respect of the same property a judge may on the application of any party to any one of such actions or on the application of any other person interested consolidate all such actions into one action and may give the conduct of the consolidated action to any plaintiff he sees fit.

34. Any lienholder entitled to the benefit of the action may apply for the carriage of the proceedings and the judge may thereupon make an order giving such lienholder the carriage of the proceedings and such lienholder shall for all purposes thereafter be the plaintiff in the action.

35. Where a lien is discharged or vacated under section 26 of this Act or where in an action judgment is given in favour of or against a claim for a lien in addition to the costs of an action the judge may allow a reasonable amount for costs of drawing and filing the lien or for vacating the registration of the lien.

36. The costs of and incidental to all applications and orders made under this Act and not otherwise provided for shall be in the discretion of the judge to whom the application or order is made.

37. All judgments in favour of lienholders shall adjudge that the person or persons personally liable for the amount of the judgment shall pay any deficiency which may remain after sale of the property adjudged to be sold and whenever on a sale of any property to realize a lien under this Act sufficient to satisfy the judgment and costs is not realized therefrom the deficiency may be recovered by execution against the property of such person or persons.

38. Whenever in an action brought under the provisions of this Act any claimant shall fail for any reason to establish valid lien he may nevertheless recover therein a personal judgment against any party or parties to the action for such sum or sums as may appear to be due to him and which he might recover in an action on contract against such party or parties.

38a. Where in this Act a time is limited for filing a document or taking a proceeding, and through accident, mistake or inadvertence the time thus limited has been allowed to expire without such document being filed or proceeding taken, a judge may nevertheless, upon such terms as may seem just, extend the time so limited; such enlargement to be subject to the rights of third persons accrued by reason of the failure or omission to file the document or take the proceeding within the time limited. 1915, c. 43, s. 27 (2).

39. The forms in the schedule hereto or forms similar thereto or to the like effect may be adopted in all proceedings under this Act.

#### Liens for Improvement of Chattels.

40. Every mechanic or other person who has bestowed money or skill and materials upon any chattel or thing in the alteration and improvement of its properties or for the purpose of imparting an additional value to it so as thereby to be entitled to a lien upon such chattel or thing for the amount or the value of the money or skill and materials bestowed shall while such lien exists but not afterwards in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid have the right in addition to all other remedies provided by law to sell the chattel or thing in respect of which the lien exists on giving one month's notice by advertisement in a newspaper published in the locality in which the work was done or in case there is no newspaper published in such locality or within ten miles of the place where the work was done then by posting up not less than five notices in the most public places within the locality for one month stating the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale and the name of the auctioneer and leaving a like notice in writing at the residence or last known place of residence, if any, of the owner, as the case may be, or by mailing the same to him by registered letter if his address be known.

(2) Such mechanic or other person shall apply the proceeds of the sale in payment of the amount due to him and the costs of advertising and sale and shall upon application pay over any surplus to the person entitled thereto.

(Forms omitted.)

#### Woodmen's Liens.

Chapter 151.—1. This Act may be cited as The Woodmen's Lien for Services Act.  
Interpretation.

2. In this Act unless the context otherwise requires the expression:

(1) "Logs and timber" includes logs, timbers, telegraph poles, railway ties, pulpwood, shingle bolts or staves, or any of them, and fence posts and cordwood while lying piled for shipment by rail or water;

(2) "Labour, service or services" includes cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting or booming any logs or timber and any work done by cooks, blacksmiths, artisans and others usually employed in connection therewith;

(3) "Judge" means a judge of any of the district courts in Saskatchewan.

3. Every agreement or bargain, verbal or written, expressed or implied which has heretofore been made or entered into or which may hereafter be made or entered into on the part of any workman, servant, labourer, mechanic or other person employed in any kind of manual labour intended to be dealt with in this Act by which it is agreed that this Act shall not apply or that the remedies provided by it shall not be available for the benefit of any person entering into such agreement is hereby declared to be null and void and of no effect as against any such workman, servant, labourer, mechanic or other person.

(2) This section shall not apply to any foreman, manager, officer or other person whose wages are more than \$3 a day exclusive of board and lodgings.

4. Any person performing any labour, service or services in connection with any logs or timber within this province shall have a lien thereon for the amount due for such labour, service or services; and the same shall be deemed a first lien or charge on such logs or timber and shall have priority over all other claims or liens thereon except any lien or claim which the Crown may have upon such logs or timber for or in respect of any dues or charges.

5. The lien provided for in section 4 shall not continue to be a charge on the logs or timber after the time within which the statement of claim hereinafter provided for is required to be filed unless such statement verified upon oath by the person claiming such lien or some one duly authorized on his behalf shall be filed as hereinafter directed.

(2) Such statement shall be in writing and shall be filed in the office of the clerk of the district court of the judicial district in which the labour or service or some part thereof has been performed;

Provided that when such labour or services have been performed upon any logs or timber got out to be run down or which have been run down any of the rivers or streams within or partly within Saskatchewan such statement may at the option of the claimant be filed in the office of the clerk of the district court of the judicial district wherein the drive terminates or reaches its destination.

6. Such statement shall set out briefly the nature of the debt, demand or claim, the amount due to the claimant as near as may be over and above all legal setoffs or counterclaims and a description of the logs or timber upon or against which the lien is claimed and may be in the form A set out in the schedule to this Act or to the like effect.

7. If such labour, service or services be done between the first day of October and the first day of April next thereafter the statement of claim shall be filed on or before the thirtieth day of April next thereafter; but if such labour or services or any part thereof be done or performed on or after the first day of April and before the first day of October in any year then such statement shall be filed within thirty days after the last day upon which labour or services or some part thereof were performed.

8. No mortgage, sale or transfer of the logs or timber upon which a lien is claimed under this Act made during the time limited for the filing of such statement of claim and previous to the filing thereof or after the filing thereof and during the time limited for enforcement thereof shall in anywise affect such lien; but such lien shall remain and be in force against such logs or timber in whosoever possession the same shall be found.

9. Any person or persons having a lien upon or against any logs or timber under this Act may enforce the same by action in the district court where such statement of lien is filed; and such action may be commenced to enforce such lien if the same be due immediately after the filing of such statement or if credit has been given immediately after the expiry of the period of credit; and such lien shall cease to be a lien upon the property named in such statement unless the proceedings to enforce the same be commenced within thirty days after the filing of the statement or within thirty days after the expiry of the period of credit. On all such actions the person, company or corporation liable for the payment of such debt or claim shall be made the party defendant.

10. There shall be attached to or indorsed upon the writ of summons a copy of the lien claim as hereinbefore provided; and no other statement of claim shall be necessary unless ordered by the court or judge; and except as herein otherwise provided the practice shall be that of the district courts; writs may be served anywhere in the province in the same manner as in other cases and the judgment shall declare that the same is for labour or services, the amount thereof and costs and that the plaintiff has a lien thereon on the property described when such is the case.

11. When an execution has issued and has been placed in the sheriff's hands for execution and no attachment has been issued the proceedings for the enforcement of the lien shall be by sale under the execution and the proceedings relating to proof of other claims and the payment of other money into court and the distribution of money and otherwise shall as far as practicable be the same as hereinafter provided for proceedings upon and subsequent to an attachment.

12. The judge may direct that any action brought to enforce a lien under the provisions of this Act shall be disposed of summarily by him in chambers without waiting for the regular sittings of the court upon such terms as to notice and otherwise as the order shall provide and the same may be so heard and disposed of.

(2) The judge may also entertain in chambers any application to set aside an attachment or seizure or to release logs or timber that have been seized and may summarily dispose of the same.

13. Where the amount of any claim whereon action has been commenced as aforesaid is not less than \$10 upon the production and filing of a copy of said claim and affidavit and of an affidavit made and sworn by the claimant of the amount of the claim due and owing and showing that the same has been filed as aforesaid and stating that:

(a) He has good reason to believe and does believe that the logs or timber are about to be removed out of Saskatchewan; or

(b) That the person indebted for the amount of such lien has absconded from the province with intent to defraud or defeat his creditors; or

(c) That the logs or timber are about to be cut into lumber or other timber, so that the same cannot be identified.

(d) And that he is in danger of losing his said claim if an attachment do not issue; and if an affidavit corroborating the affidavit of the plaintiff in respect of clauses (a), (b) and (c) of this section be also filed then the judge of the proper district court may on application made to him *ex parte* direct the clerk to issue a writ of attachment directed to the sheriff of such court commanding such sheriff to attach, seize, take and safely keep such logs or timber or a sufficient portion thereof to secure the sum mentioned in the said writ and the costs of the action and of the proceedings to enforce the lien and to return the writ forthwith to the court out of which the same is issued.

14. Where additional claims are made or the amount of claim is increased or a sufficient seizure has not been made a second or subsequent seizure may be made either under execution or attachment.

15. A copy of the writ of attachment shall be served upon the defendant; and if the defendant in such attachment is not the owner of the logs or timber described in the writ of attachment then a copy of the writ shall also be served upon the owner of said logs or timber or upon the agent or person in whose possession, custody or control for him they may be found; the owner may on his own application or by the direction of a judge be made a party defendant at the trial.

16. In case the defendant or owner cannot be found within the province or the owner cannot be ascertained and no agent or person is in possession for the owner the writ may be served in such manner as the judge shall by order direct.

17. No sheriff shall seize upon or detain any logs or timber under the provisions of this Act when in transit by water from the place where cut to the place of destination.

18. In case of an attachment if the owner of said logs or timber or any person in his behalf shall execute and file with the clerk of the court out of which the attachment has issued a good and sufficient bond to the person claiming the lien executed by two sureties and conditioned for the payment of the claim and of all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings together with the amount for which a lien is claimed in any other action, if any, the judge may upon application *ex parte* if satisfied as to the sufficiency of the bond issue an order to the sheriff having in charge the logs or timber directing their release; and upon service of such order upon the sheriff he shall release the same.

19. Any person who shall have been served with a copy of the writ of attachment under this Act and who may desire to dispute the same shall within twenty days after such service enter in the court in which proceedings are pending a notice that he or they dispute the claim upon the lien in whole or in part or file a statement of defence as the practice of the district courts may require.

20. The defendant may at any time after service of the writ of attachment and before the sale of the logs or timber pay into court the amount for which a lien is claimed in the action together with the amount for which a lien is claimed in any other action, if any, and together with the costs of the proceedings thereon to the date of such payment taxed by the clerk of the court if so required; and the person making such payment shall thereupon be entitled to a certificate vacating such lien; and upon said certificate being filed with the clerk of the district court in which the original statement of claim was filed the said lien shall be vacated and all further proceedings thereon shall cease and the person making such payment shall further be entitled to an order directing the delivery up of the logs or timber seized under the attachment or the cancellation of any bond given under section 18 of this Act.

21. After the expiration of the time hereinbefore named within which notice of dispute may be entered or statement of defence filed the judge shall in chambers as provided by section 12 of this Act or at the next sitting of the court after due notice to all parties to the action and to all persons claiming liens on the logs or timber and whose liens are duly filed as aforesaid or to their solicitors hear all such parties and claimants and take all accounts necessary to determine the amounts, if any, due to them or any of them or to any other holders of liens who may be called by the judge to prove their liens and shall tax them their costs and determine by whom the same shall be payable and settle their priorities and generally determine all such matters as may be necessary for the adjustment of the rights of the several parties.

22. At the conclusion of the inquiry the judge shall make his report and order which shall state his findings and direct the payment into court in which proceedings are pending of the amounts, if any, so found due and the costs within ten days thereafter; and in default of such payment that the logs or timber shall be sold by the sheriff for the satisfaction of the amount found due to the several parties upon the inquiry and costs.

23. In default of payment into court under the last preceding section within the time named therein the said logs or timber shall within twenty days thereafter be sold by the sheriff holding the same in the manner and subject to the same provisions of law as goods and chattels seized or taken in execution unless the judge shall direct that additional publicity be given to the sale; and the amount realized by such sale shall after deducting the expenses thereof payable to the sheriff be paid into the court in which the proceedings are pending and shall upon the application of the several parties found to be entitled thereto under the order of the judge be paid out to them by the clerk of the said court:

Provided that where the amount realized upon the sale shall not be sufficient to pay the claims in full and cost the judge shall apportion the amount realized *pro rata* among the different claimants.

24. If after such sale and distribution of the proceeds thereof under the preceding section any balance shall remain due to any person under the said order of the judge judgment may be entered therefor against the person or persons by whom the claim was directed to be paid and execution may be issued thereupon as in the case of other judgments in the district court.

25. Where nothing shall be found due upon the several claims filed under this Act or upon the lien or liens in respect to which proceedings have been taken the judge may direct by his said order that the lien or liens be discharged and the logs or timber released or the security given therefor be delivered up and cancelled and shall also by such order direct payment forthwith of any costs which may be found due to the defendant or owner of the said logs or timber.

26. Where more money shall be paid into court as the proceeds of the sale of logs or timber than shall be required to satisfy the liens which shall have been proved and the interest and costs the remaining moneys shall be paid over to the party entitled to the same unless the judge otherwise orders.

27. Any person affected by proceedings taken under this Act may apply to the judge to dismiss the same for want of prosecution and the judge may make such order upon the application as to costs or otherwise as may be just.

28. The judge may at any stage of such proceedings on the application of any party or as he may see fit order that any person who may be deemed a necessary party to any such proceedings be added as a party thereto or be served with any process or notice provided for by this Act; and the judge may make such order as to the costs of adding such person or corporation as to such service as may be just.

29. Nothing in this Act contained shall be deemed to disentitle any person to any other remedy than that afforded by this Act for the recovery of any amount due in respect of labour or services performed upon or in connection with any logs or timber; and where action is brought to enforce a lien but no lien be found to exist judgment may be directed for the amount found due as in an ordinary case.

30. Any number of lienholders may join in taking proceedings under this Act or may assign their claims to any one or more persons; but the statement of claim to be filed under section 5 of this Act shall include particular statements of the several claims of persons so joining and shall be verified by the affidavits of such persons so joining or separate statements of claim may be filed and verified as by this Act provided and one attachment or writ of summons issued on behalf of all the persons so joining.

31. Where suits are brought in more than one district court respecting liens or claims upon the same logs or timber the proceedings after the issue of the first execution or attachment shall be had in the district court out of which such execution or attachment first issued unless the judge shall otherwise order.

32. The forms necessary to be used in any action or proceeding under this Act, the costs to be taxed to any party therein and the procedure regulating the practice in actions brought and other proceedings taken under the provisions of this Act shall so far as the same are not inconsistent with this Act be nearly as may be according to the forms, tariff of costs and procedure in force in the district courts.

(Schedule omitted.)

### Protection of Thresher Employees' Wages.

Chapter 153 with amendments.— 1. This Act may be cited as The Thresher Employees Act.

#### Interpretation.

2. In this Act unless the context otherwise requires:—

(1) "Employer" includes any person or body of persons corporate or incorporated with whom an employee as defined by this Act has entered into a contract of service whether such employer is the owner, lessee or bailee of the threshing machine on or about which such contract of service is performed;



(2) "Employee" includes every person who is engaged in an employment of threshing on or about any threshing machine and means any person who has entered into or works under a contract of service with an employer as defined by this Act whether the contract is expressed or implied, is oral or in writing;

(3) "Court" means the district court of the judicial district within which the threshing or some part thereof has been performed; and "judge" means the judge of the said court.

3. Any employee who works for wages on or about any threshing machine shall to the extent of his wages have a claim against the earnings of his employer in the hands of a third person for whom such threshing has been done by his employer and in the course of which such employee was engaged; and such claim shall have priority over all assignments, attachments or garnishments of such earnings whensoever made and over every claim or right of every kind and description whatsoever accruing either before or after the passing of this Act.

(2) No such third person shall be liable to any action or proceeding by such employer or his assigns in respect of such earnings while retained by him pursuant to the provisions of this Act.

4. Such claims shall cease to exist unless such employee shall serve a claim and proceed as provided by this Act.

(2) When an employee is unable to effect prompt personal service, he may apply to the judge of the district court of the judicial district in which is situated the land upon which the work was done, and the judge may make such order, for substituted or other service or for the substitution for service of notice by letter, public advertisement, or otherwise, and upon such evidence as may appear just. 1916, c. 37, s. 26.

5. Such claim shall be in writing and shall set out:—

(a) The full name and post office address of such employee together with the post office address and full name of such employer where practicable with as much certainty and particularity as possible;

(b) A short description of the work or service done together with a statement of the length of time worked by such employee;

(c) The sum of money claimed as due.

(2) Such claim may be in the form A in the schedule to this Act or to the like effect and shall be verified by the affidavit of such employee.

(3) Such claim shall within twenty days after such threshing is completed be served on such third person and on such employer. 1912-13, c. 46, s. 39 (1).

6. Every such third person for whom such threshing shall have been done shall hold in his possession until the expiration of the said twenty days the sum of money earned by such employer:

Provided, however, that in case a claim under this Act has within the said twenty days been served upon him such third person shall continue to hold in his possession such sum of money until the expiration of thirty days from the completion of such threshing or for such further time as may be provided by this Act;

Provided further that such third person shall on default so as to hold in his possession such sum of money be to the extent thereof liable for the wages due to every employee in respect of such threshing. 1912-13, c. 46, s. 39 (2).

7. Subject to the provisions of section 8 of this Act such third person shall after the expiration of said thirty days pay to such employee upon demand the amount of his claim unless within the said thirty days such employer shall have served upon such third person a notice of contest as herein provided.

(2) All payments lawfully made under this Act by such third person shall be deemed to be payment *pro tanto* to such employer.

(3) In case such third person neglects or refuses to pay such wages upon demand as provided by this section he may be proceeded against by such employee under An Act respecting Masters and Servants, the provisions whereof are hereby declared to be applicable to any proceedings taken by such employee under this section.

8. In case the total sum of money in respect of which such claims have been served on such third person exceeds the total sum of money earned by such employer in threshing for such third person such third person shall after the expiration of ten days and not later than thirty days after such threshing was completed pay into the district court such total sum of money which payment shall be a valid discharge to him against such employer to the amount paid and shall at the same time deliver or transmit by registered post letter to the clerk of such court all claims, notices of contest and all other documents served upon him relating to such sum of money.

9. Whenever the provisions of the next preceding section shall not apply to the circumstances of the case such third person shall in case within the said thirty days he shall have been served with a notice of contest by such employer in respect of any claim as herein provided forthwith but not later than forty days after such threshing was completed and subject to the provisions of the next preceding section pay into the



district court the sum of money claimed in such claim which payment shall be a valid discharge to him against such employer to the amount paid and he shall at the same time deliver or transmit by registered post letter to the clerk of such court the claim, notice of contest and all other documents served upon him and relating to the said sum of money:

Provided, however, that in case the provisions of the next preceding section shall apply to the circumstances of the case such third person shall forthwith after being served with any notice of contest of such employer but not later than forty days after such threshing was completed deliver or transmit by registered post letter to the said clerk all claims, notices of contest and all other documents served upon him and relating to the said sum of money.

10. The persons so paying money into court under the provisions of sections 8 or 9 of this Act shall be entitled to deduct therefrom his necessary disbursements and costs (not exceeding five dollars) excepting when such sum of money is larger than the amount of the claim of the employee in which case the person so paying money into court may deduct such costs and disbursements out of the balance in his hands, but if such balance is not sufficient to cover such disbursements and costs he may deduct the difference from the amount to be paid into court.

11. The notice of contest provided by this Act shall be in form B in the schedule to this Act or to the like effect, shall contain a brief statement of the nature or grounds of contest and the post office address of such employer and be verified by the affidavit of the employer.

12. The clerk of the court shall from time to time:—

(a) Forthwith after receipt by him of money paid into court pursuant to section 8 or 9 hereof notify by registered post letter such employer and all employees claiming in respect of such money; and

(b) Forthwith after receipt by him of notice of contest under this Act notify by registered post letter every employee in respect of whose claim such notice of contest is given;

Provided that if an employer shall in his notice of contest omit to state his post office address the notice to him shall be mailed to the address stated by the employee in his claim as required by section 5 hereof.

13. Where a sum of money is paid into court under this Act an employee claiming under this Act (or in case there are more than one claiming then any one of such employees may sue out an interpleader summons to determine, adjust and finally settle the rights of the several claims and parties to such sum of money paid into court and in such proceedings between employees and employers the former shall be plaintiff and the latter defendant; and in the event of such interpleader summons not being sued out by any such employee within twenty days after such sum of money has been paid into court such sum of money shall be paid out only in pursuance of an order of the judge of the said court to such employer or his assigns or to such other person as may be entitled thereto.

(2) Such interpleader summons shall be in form C in the schedule to this Act and any number of claimants may be joined therein.

14. Upon the return of such interpleader summons the judge shall summarily determine the rights of the said several parties to the moneys so paid into court and may make such order in the premises and as to costs as shall to him appear just.

15. Where a sum of money has been paid into court by such third person and an order has been made for the payment of the sum out of court to such employees or any of them and such sum of money is not sufficient to satisfy in full the claims of such employees then in such case such sum of money shall be distributed rateably among such employees subject to any order of the court as to costs;

Provided, however, that any sum of money so paid into court as to which no order of payment out to such employees or any of them shall have been made shall be paid out as provided by section 13 of this Act.

16. Every employer shall upon demand at any time of any employee or of any third person for whom threshing has been done forthwith furnish to such employee or to such third person a written statement setting forth the length of time for which such employee is entitled at the time of such demand to be paid for such work and setting forth the sum of money earned by such employee for such work up to that time, which written statement shall be signed by such employer or by his foreman or agent acting for him; and if such employer or his foreman or agent refuses or neglects to furnish such written statement on demand he shall be liable upon summary conviction before a justice of the peace to a penalty of \$5 for every day during which such statement is withheld, together with the costs of the prosecution:

Provided, however, that any contravention of this section by the foreman or agent of any such employer shall be presumed to be the act of such employer, but such presumption may be rebutted by proof of explicit instructions to the contrary by such employer and any such foreman or agent contravening the provisions of this section

and disobeying such explicit instructions shall be liable to the penalty provided by this section.

17. The following fees shall be paid to the clerk of the district court in respect of the following matters herein provided for and may be by him retained as to clauses 1 and 2 of this section out of the money paid into court pursuant to section 8 or 9 of this Act:

- (1) Filing claim, twenty-five cents;
- (2) Filing notice of contest, twenty-five cents.
- (3) Interpleader summons, fifty cents.

18. For the purposes of the consequences of any order or conviction by justice of the peace under this Act an order or conviction against a member of a partnership shall be deemed to be an order or conviction against each member of such partnership.

## STATUTES OF 1910-11.

### Bureau of Labour.

Chapter 8.—1. There shall be attached to the Department of Agriculture a bureau to be styled The Bureau of Labour.

2. The Lieutenant-Governor in Council may appoint a secretary of the said bureau and may also appoint such other officers as may be necessary for the proper conduct of the bureau.

3. It shall be the object of the bureau to collect, assort, systematize and publish information and statistics relating to:—

- (a) Employment, wages and hours of labour throughout the province;
- (b) Strikes or other labour difficulties;
- (c) Co-operation, trades unions, labour organizations;
- (d) The relations between capital and labour and other subjects of interest to workmen;
- (e) The commercial, industrial and sanitary conditions surrounding workingmen; and
- (f) Such other matters as relate to the permanent prosperity of the industries of the province.

### Workmen's Compensation.

Chapter 9 with amendments.—1. This Act may be cited as The Workmen's Compensation Act.

#### Application of Act.

2. This Act shall apply only to employment by the principal on or in or about a railway, factory, mine, quarry, or engineering work; or in or about any building which is either being constructed or repaired or being demolished.

#### Interpretation.

3. In this Act unless the context otherwise requires the expression—

(1) "Railway" means a road used by a private person or public company on which carriages run over metal rails and shall include railways or tramways worked by the force and power of steam, electricity or of the atmosphere or by mechanical power or any combination of them;

(2) "Factory" means a building, workshop or place where machinery driven by steam, water or other mechanical power is used and includes mills where manufactures of wood, flour, meal, pulp or other substances are being carried on, also smelters where metals are sorted, extracted or operated on; every laundry worked by steam, water or other mechanical power and also includes any dock, wharf, quay, warehouse, ship-building yard where goods or materials are being stored, handled, transported or manufactured.

(3) "Mine" means any kind of mine and includes every shaft in the course of being sunk and every level and inclined plane in the course of being driven for commencing or opening any mine or for searching for or proving minerals and all the shafts, levels, planes, works, machinery, tramways, railways and sidings, both below ground and above ground, in and adjacent to a mine and any such shaft, level and inclined plane of and belonging to the mine;

(4) "Engineering work" means any work of construction or alteration or repair of a railway, harbour, dock, canal, sewer or system of waterworks; and outside electrical construction of all kinds, including the alteration and repair of outside wires, cables, apparatus and appliances; and includes any other work for the construction, alteration or repair of which machinery, driven by steam, water or other mechanical power is used. 1913, c. 67, s. 25.

(5) "Quarry" means an open cut from which rock is cut or taken;

(6) "Principal" in the case of a railway means the person or company owning or operating the railway; in the case of a factory, mine or quarry, means the owner, occupier or operator thereof; in the case of an engineering work or other work specified in this Act, means the person undertaking the construction, alteration, repair or demolition;

(7) "Employer" includes any body of persons corporate or unincorporate, any municipality and the legal personal representative of a deceased employer and where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship the latter shall for the purpose of this Act be deemed to be the employer of the workman whilst he is working for that other person;

(8) "Court" or "district court" means the district court of the judicial district in which the defendant resides or in which the accident out of which the matter arose occurred or any judge of such district court;

(9) "Workman" means every person who is engaged in any employment to which this Act applies whether by way of manual labour or otherwise and whether his agreement is one of service or apprenticeship or otherwise and is expressed or implied, is oral or in writing, but does not include any person employed otherwise than by way of manual labour whose remuneration exceeds \$1,200 a year;

(10) "Dependents" means such of the members of the workman's family as were wholly or in part dependent upon the earnings of the workman at the time of his death or would but for the incapacity due to the accident have been so dependent and where the workman being the parent or grandparent of an illegitimate child leaves such a child so dependent upon his earnings or being an illegitimate child leaves a parent or grandparent so dependent upon his earnings shall include such an illegitimate child and parent or grandparent respectively;

(11) "Member of a family" means wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, half-sister, adopted child, foster parent.

4. If in any employment to which this Act applies personal injury by accident arising out of and in the course of the employment is caused to a workman his employer shall be liable to pay compensation in accordance with the provisions of this Act:

Provided that the employer shall not be liable under this Act in respect of any injury which does not disable the workman for a period of at least one week from earning wages at the work at which he was employed.

(2) Any contract made after the coming into force of this Act whereby a workman relinquishes any right to compensation from the employer for personal injury arising out of and in the course of his employment shall for the purposes of this Act be void and of no effect; and any such contract existing at the coming into force of this Act shall not for the purposes of this Act be deemed to continue after the time at which the workman's contract of service would determine if notice of the determination thereof were given at the time of the coming into force of this Act.

5. Such compensation may be recovered by action in the district court.

6. Such employer shall be liable to pay such compensation whether or not:—

(a) The injury or death resulted from the negligence of any person engaged in a common employment with the injured employee; or

(b) The injury or death was caused by the negligence of the employer or any person in his service or by reason of any defect in the condition or arrangement of the ways, works, machinery, plant, building or premises connected with, intended for or used in the business of the employer; or

(c) The workman contributed to or was the sole cause of the injury or death by reason of his own negligence or misconduct; or

(d) The injury or death resulted from a risk arising out of or incidental to the nature of the employment and which the workman expressly or impliedly assumed.

7. If such injury results in death the action shall be brought by and in the name of the executor or administrator of the deceased workman and shall be for the benefit of the dependents of the deceased.

8. If within the time limited for bringing an action under this Act an action is brought to recover damages independently of this Act for injury caused by an accident and it is determined in such action that the injury is one for which the employer is not liable in such action, but that he would have been liable to pay compensation under this Act the action shall be dismissed; but the judge before whom such action is tried shall, if the plaintiff so chooses, either immediately or in case of an unsuccessful appeal upon notice to the opposite party within thirty days after the disposition of such appeal, proceed to assess such compensation and to adjudge the same to the plaintiff, and he shall be at liberty to deduct from such compensation all or part of the costs which in his judgment have been caused by the plaintiff bringing his action independently of this Act instead of proceeding under the same, and also, in cases where there has been an appeal the costs of the appeal.

(2) This Act shall be construed as if this section had always existed therein in its present form. 1915, c. 43, s. 28 (1).

9. Where in any employment to which this Act applies the principal contracts with any person (in this section called "the contractor") for the execution by or under such contractor of any work in the way of the principal's trade or business the principal shall be liable to pay any workman employed in the execution of the work any compensation under this Act which he would have been liable to pay if that workman had been immediately employed by him:

Provided that the principal shall be entitled to be indemnified by any other person who would have been liable independently of this section.

(2) This section shall not apply to any contract with any person for the execution by or under such person of any work which is merely ancillary or incidental to and is no part of or process in the trade or business carried on by such principal.

(3) Nothing in this Act shall be construed as preventing a workman recovering compensation under this Act from the contractor instead of the principal.

#### Provision as to Cases of Insolvency of Employer.

10. Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman then in the event of the employer making an assignment for the benefit of or a composition or arrangement with his creditors or if the employer is a company in the event of the company having commenced to be wound up the rights of the employer against the insurers as respects that liability shall be transferred to and vest in the workman and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so however that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employers to the workman the workman may prove for the balance in the assignment or liquidation proceedings.

(3) There shall be included among the debts which under The Assignments Act or The Companies Winding Up Act are in the distribution of the property in the case of an assignment or in the distribution of the assets of a company being wound up under the said Acts respectively to be paid in priority to all other debts, the amount not exceeding in any individual case five hundred dollars due in respect of any compensation the liability wherefor accrued before the date of the assignment or the date of the commencement of the winding up and the said Acts shall have effect accordingly.

(4) The provisions of this section with respect to preferences and priorities shall not apply where the assignor or the company being wound up has entered into such contract with insurers as aforesaid.

(5) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

11. An action under this Act shall not be maintainable unless it is commenced within six months from the occurrence of the accident causing the injury or in case of death within six months from the time of death.

12. In the case of any injury for which compensation is payable under this Act the plaintiff may at his option proceed either under this Act against the employer or independently of this Act against the said employer or any other person from whom he may be entitled at law to recover damages; but the plaintiff shall not be at liberty to proceed both under and independently of this Act.

13. Where compensation is paid under this Act by an employer for an injury caused under circumstances creating a legal disability in some person other than the employer the employer shall be entitled to be indemnified by the said other person.

14. Notwithstanding anything hereinbefore contained this Act shall not apply to the employment of agriculture nor to any work performed or machinery used on or about a farm or homestead for farm purposes or for the purposes of improving such farm or homestead and for greater certainty but so as not to restrict in any degree the generality of the foregoing words of this section this Act shall not apply to any of the following employments on a farm:

(a) Threshing, cleaning, grinding, crushing, grinding or otherwise treating grain or sawing wood, posts, lumber or other wooden material or otherwise treating the same or the pressing of hay by any kind of machinery or motive power and whether such machinery or motive power be portable or stationary and whether the same be owned and operated by the farmer or farmers for whose purpose the same is being used or by any other farmer or other person for gain, profit or reward;

(b) The construction, repair or demolition of any farm building, windmill, derrick or other structure.

(2) The word "factory" as defined in this Act shall not be held to include any building, workshop, place or mill on a farm used for the purposes of such farm.

(3) The words "mine" or "quarry" as defined in this Act shall not be held to include any mine or quarry on a farm used for the purposes only of such farm.

(4) The words "engineering work" as defined in this Act shall not be held to include any ditch, drain, well or other excavation on a farm being constructed or repaired for the purposes of such farm or any adjoining farm or farms.

(5) Notwithstanding anything contained in this section any person undertaking the construction, repair, or demolition of any building upon any farm under contract with the owner or occupant of such farm shall be liable to the workmen employed by him for the compensation for injuries provided by this Act.

15. The amount of compensation recoverable under this Act shall not exceed either such sum as is found to be equivalent to the estimated earnings during the three years preceding the injury of a person in the same grade employed during those three years in a like employment or the sum of \$1,800 whichever is larger but shall not exceed in any case the sum of \$2,000.

16. The amount of compensation recoverable under this Act shall not be subject to any deduction or abatement by reason or on account or in respect of any matter or thing whatsoever save in respect of any sums of money which shall have been paid by the employer to the workman on account of the injury received by the workman, which sum or sums shall be deducted from the amount of said compensation.

17. The amount of compensation recoverable under this Act shall not be capable of being assigned, charged or attached and shall not pass to any other person by operation of law nor shall any claim be set off against the same.

18. Where the action is brought on behalf of the dependents of a workman for an injury resulting in death the amount of the compensation awarded after deducting costs shall be divided among the said dependents in such shares as the court may determine.

19. All actions brought under this Act shall be tried by the judge without a jury; an appeal may be taken to the supreme court sitting *en banc* upon any question of law or mixed question of law and fact; but save as provided in this section no appeal shall lie from any judgment or order of the trial judge.

(2) This Act shall be construed as if this section had always existed in its present form. 1915, c. 43, s. 28 (2).

20. This Act shall come into force on the first day of November, 1911.

21. From and after the first day of January, 1913, it shall be the duty of every employer to forthwith after the happening of any accident whereby any workman in his employ has become wholly or partially incapacitated from work to report such accident to the secretary of the bureau of labour at Regina, together with all the details of the injury caused thereby as the same are set out in form A of the schedule to this Act; and unless such employer shall have complied with the requirements of this section within ten days after the happening of such accident he shall be deemed guilty of an offence against this Act and shall be liable upon summary conviction to a penalty not exceeding \$300 and costs, and to a further penalty not exceeding \$10 and costs for each day subsequent to the expiration of the said interval during which he neglects to make such report and in default of payment to imprisonment for a term not more than three months.

(2) No report required by this section to be made nor any part thereof shall be admitted in evidence or referred to at the trial of any action or in any judicial proceeding whatever except prosecution for the violation of this Act. 1912-13, c. 46, s. 42.

(Form omitted.)

## STATUTES OF 1912.

### Employment of Women by Chinamen.

Chapter 17 with amendment.—1. No person shall employ in any capacity any white woman or girl or permit any white woman or girl to reside or lodge in or to work in or, save as a *bona fide* customer in a public apartment thereof only, to frequent any restaurant, laundry or other place of business or amusement owned, kept or managed by any Chinaman. 1912-13, c. 18, s. 1.

2. Any employer guilty of any contravention or violation of this Act shall upon summary conviction be liable to a penalty not exceeding \$100 and in default of payment to imprisonment for a term not exceeding two months.

3. This Act shall come into force on the first day of May, 1912.

### Protection of Employees on Buildings and Excavations.

Chapter 18 with amendments.—1. This Act may be cited as The Building Trades Protection Act.

2. In this Act:

(1) "Building" shall include any structure roofed in or intended to be roofed in and capable when completed of affording protection and shelter;

(2) "Inspector" shall mean an inspector appointed by a municipal council or by the Lieutenant-Governor in Council for the purpose of enforcing the provisions of this Act;

(3) "Excavation" shall mean any trench in the ground at a depth of more than four feet. 1912-13, c. 46, s. 4 (a).

3. The Lieutenant-Governor in Council has power to appoint inspectors to enforce this Act in any part of Saskatchewan.

4. The council of every city shall by a bylaw appoint a sufficient number of persons to be inspectors for the purpose of enforcing the provisions of this Act within the limits thereof.

5. Where any inspector appointed under this Act finds that any provision of this Act is being violated in the case of any building he may give such orders in writing as may in his opinion be required to secure due compliance with such provision and upon any such order being made and until the same is carried out the work upon that part of the building or excavation in which the default occurs shall be suspended. 1912-13, c. 46, s. 4 (b).

6. In the erection, alteration, repair, improvement or demolition of any building or excavation no scaffolding, hoists, stays, ladders, flooring or other mechanical and temporary contrivances shall be used which are unsafe, unsuitable or improper or which are not so constructed, protected, placed and operated as to afford reasonable safety from accident to persons employed or engaged upon the building or excavation. 1912-13, c. 46, s. 4 (c).

7. The following regulations shall be complied with in the erection, alteration, repair, improvement or demolition of every building:

(1) The floors of all scaffolding whether standing or suspended from overhead shall be at least one and three-quarters inches thick, four feet wide and there shall be a railing or guard not less than three feet nor more than four feet from the flooring on the outside of the scaffolding for the protection of persons working thereon;

(2) Where the scaffolding or staging is swung or suspended from an overhead support it shall be so secured as to prevent its swaying to and fro;

(3) Where poles are used in scaffolding the poles shall be securely lashed at every point of contact and where square timber is used in scaffolding the same shall be securely spiked or bolted at every point of contact.

(4) No lumber or timber shall be hoisted in a single sling;

(5) Where hoists are used for raising materials for use in buildings the shafts or openings shall be protected at each floor by a barrier not less than three feet nor more than four feet from the level of the floor and the barrier shall be placed not less than two feet from the edge of the shaft or opening in which the hoist is operated;

(6) All ladders used in the construction of buildings shall reach to a distance of at least three rungs above the platform or scaffolding against which they are placed. 1913, c. 63, s. 1.

8. Where the plans and specifications require the floors to be arched between the beams thereof or where the floors or filling in between the floors are of fireproof material the flooring or filling shall be completed as the building progresses to not less height than within three tiers of beams below that on which the iron work is being erected.

(2) Where the plans and specifications do not require filling in between the beams of floors with fireproof material or brick work the contractor for the carpenter work in the course of construction shall lay the under flooring of the building on each storey as the building progresses to not less height than within two storeys below the one to which the building has been erected.

(3) Where double floors are not to be used such contractor shall keep planked over the floor two storeys below the storey where the work is being performed.

(4) If the floor beams are of iron or steel the contractor for the iron or steel work of a building in course of construction or the owner of such building shall thoroughly plank over the entire tier of iron or steel beams on which the structural iron or steel work is being erected except such spaces as may be reasonably required for the proper construction of such iron or steel work and for the raising or lowering of materials to be used in the construction of such building and such spaces as may be designated by the plans and specifications for stairways and elevator shafts.

9. In the case of what are known as skeleton steel frame buildings compliance with the following regulations shall be sufficient and it shall not be necessary to comply with the requirements of section 8:

(1) As soon as the steel frame of a building is erected to the first column splice the riveters and a temporary floor must be provided on the girders and floor beams on the floor immediately below the first column splice making a temporary floor over that part of the area of the building inside columns at that level except in places where it is necessary to have openings for the passage of material for building above that point. When erection has reached a point level with the next column splice the planking used as temporary floor at first column splice shall be removed and placed as before at second splice and so on to the top of the building;



(2) A double flooring of planking known as two inch planking shall be laid down immediately under any derrick for a sufficient space about the derrick to protect workmen on the floors below that on which the derrick is working and to hold with safety the materials hoisted by the derrick;

(3) Riveters' staging shall be so constructed as to secure the reasonable safety of the riveters and a temporary floor must be provided on the girders and floor beams immediately below the portion of the floor upon which the riveters are working sufficient for the protection of workmen engaged below that floor;

(4) The steel work may be carried on in advance of the construction of permanent floors.

10. In cities and towns the following regulations shall be complied with in erecting, altering or repairing any building:

(1) When the work is erected on the line of any street or within three feet of the inside line of the sidewalk of any street, before any work is commenced, there shall be erected along the sidewalk a passage way, at least three feet distant from the work, a fence or barricade not less than four feet high; and when the work of erection extends beyond twenty feet high there shall be erected over the sidewalk or footway of the street a covered passage way or independent structure not less than eight feet high at the lowest side above the level of the sidewalk or footway and of sufficient strength to protect the public using the sidewalk or footway. 1913, c. 63, s. 2.

(2) If a building or excavation is to be erected or made within seven feet of the inside line of the sidewalk on any street a strongly constructed close boarded fence or barricade not less than six feet high shall be erected along the inside line of such sidewalk. 1912-13, c. 46, s. 4 (d).

(3) No person shall place any stone, brick, lumber or any building material, fence, barricade or temporary sidewalk so as to obstruct the free passage of water in the drains, gutters, or water courses; and the roofs of all covered ways shall be kept clear of any material whatever.

(4) All sewers, ditches, drains or any other excavation of whatever nature shall be properly shored up so as to prevent the caving in of the ground after a depth of four feet has been excavated from the ground level. 1912-13, c. 46, s. 4 (e).

(5) Where a building has been demolished or destroyed by fire the owner of the property shall protect the excavation, if any, by a strongly constructed board fence or barricade not less than six feet high, and the walls of the excavation or cellar shall be shored up when necessary. 1913, c. 63, s. 3.

11. Nothing in this Act shall affect any bylaw relating to the matters mentioned herein lawfully passed by a municipal council or the authority of a municipal council to pass any such bylaw so far as such bylaw imposes additional or more stringent requirements than those imposed by this Act.

12. Every person to whom the order of an inspector under this Act is directed who disobeys or who knowingly permits any person under his direction and control to disobey any such order or to carry on work in violation of the provisions of section 5 of this Act before the order is carried out or neglects or refuses to comply with any of the other provisions or requirements of this Act shall upon summary conviction be liable to a penalty not exceeding \$50 for every day upon which any violation or prevention as aforesaid occurs and in default of payment to imprisonment for a term not exceeding three months.

13. Sections 7, 8 and 9 of this Act shall not apply to any building not more than twenty feet in height or to any excavation less than four feet deep, nor to any farm building nor to any work being done upon a building or excavation by the owner or occupant thereof in person. 1912-13, c. 46, s. 4 (f); 1913, c. 63, s. 4.

14. Nothing in this Act contained shall in any way decrease or lessen the liability or obligations of any person or corporation under The Workmen's Compensation Act. 1912-13, c. 46, s. 4 (g).

### Prevention of Fires—Regulation of Explosives.

[Chapter 23, The Fires Prevention Act, amended by 1915, chapter 43, section 32, is replaced by 1916, chapter 17, The Fire Prevention Act.]

### Licensing of Chauffeurs.

Chapter 38.—11. Every person who desires to operate a motor vehicle as a chauffeur must previously obtain from the provincial secretary a chauffeur's license and to this end he shall satisfy the provincial secretary or some person appointed by him that he is well skilled and capable of operating a motor vehicle.

12. The fee for a chauffeur's license shall be \$5 and for renewal \$2 and every holder of such license must carry such license with him when operating a car.

(2) The provincial secretary shall issue a metal badge with every license to a chauffeur.



(3) If any person other than the licensee to whom the same was issued shall wear such badge while driving a motor vehicle the license may be cancelled by the provincial secretary.

(4) If a licensee shall at any time drive a motor vehicle without displaying his badge or shall display any badge other than that issued with his license his license may be cancelled by the provincial secretary.

## STATUTES OF 1913.

### Examination and Licensing of Moving Picture Operators.

Chapter 28.—3. The Lieutenant-Governor shall have power from time to time to make regulations for licensing and for the use and operation of cinematographs, moving picture machines or other similar apparatus, for prescribing the conditions under which such machines shall be operated . . . . for examining, regulating and licensing operators . . . .<sup>1</sup>

### Protection of Employees on Electrical Works.

Chapter 29.—1. The Lieutenant-Governor in Council may from time to time make, and may subsequently alter or revoke regulations governing the construction, maintenance and use of electric wires, wiring apparatus and appliances, poles, cables and fixtures for electric light, heat or power, telegraph, telephone or other purposes.

2. Every Order in Council containing such regulations shall fix the date upon which the regulations shall come into force, and such regulations shall be published in two consecutive issues of The Saskatchewan Gazette prior to such date.

### Employment Bureaus.

Chapter 39.—1. This Act may be known as The Employment Agencies Act.

2. In this Act unless the context otherwise requires:

(1) "Agency" or "employment agency" means an intelligence or an employment office or an agency for providing employment for persons seeking it or for bringing together employers and such persons;

(2) "Agent" or "employment agent" or "broker" means a person carrying on the said business;

(3) "Municipality" means city, town or village, and "municipal" has a corresponding meaning;

(4) "Council" means the municipal council of a city, town or village;

(5) "Clerk" means and includes secretary-treasurer.

3. The council of any municipality shall have power to license and regulate employment agencies and in this connection may:

(a) Determine the conditions under which an employment agency may be licensed;

(b) Prescribe the fee or fees that shall be paid for any such license;

(c) Prescribe the maximum fee or fees that may be charged by any agency;

(d) Make such provisions not contrary to law or inconsistent with this Act or any regulations of the Lieutenant-Governor in Council hereunder as it may deem necessary for the proper regulation of employment agencies under its jurisdiction.

4. No person shall keep or maintain an employment agency or engage in the business of employment agent without first obtaining a license from the council of the municipality where such agency is situated or where he carries on business.

5. Any person licensed under the provisions of this Act shall pay such license fee as the council may prescribe not to exceed two hundred dollars per annum in advance and shall deposit with the treasurer or secretary-treasurer of the municipality the bond of a guarantee company approved by the Lieutenant-Governor in Council in favour of the attorney general for Saskatchewan in the penal sum of one thousand dollars, conditioned for the due fulfilment by the obligor of his duties and obligations under this Act and for the payment of any penalty which he may incur for infringement of its provisions.

6. All licenses shall be constantly and conspicuously exposed in the office or place of business of the licensee.

7. Every licensed agent shall keep a register in which shall be entered the age, sex, nativity, trade or occupation, name and address of every person for whom employment is secured, and the amount of the fee charged (form A); such agent shall enter in the register the name and address of every employer for whom servants or employees are secured and the nature of the work promised (form B); such register shall at all

<sup>1</sup> Regulations have been issued under this section respecting the various subjects mentioned therein.

reasonable hours be open to the inspection and examination of the municipal authorities and to the secretary of the bureau of labour or his agent.

8. Every licensed agent shall issue a receipt to each person securing employment showing the age, sex, nativity, trade or occupation, name and address of such person, and the amount of the fee charged for procuring the position; such receipt shall also show the wages to be paid, together with the name and address of the employer and the name of the issuing agent; the receipt shall be made in duplicate, one original to be given to the employee and the duplicate to be retained by the agent issuing same.

9. No licensed agent shall charge a registration fee for filing or receiving applications for help or employment or for any agreement to furnish employment or help.

10. Until the council of the municipality shall otherwise provide by by-law the fee for procuring employment or help shall not exceed five per cent of the first month's wages, where the employment is for one month or more; in all other cases the maximum fee shall not be more than one dollar, and in no case shall there be a charge made against both the employer and employee.

11. In case the party paying such fee fails to obtain employment by reason of the employment being no longer vacant or available the agent shall repay the fee upon demand being made therefor.

12. No licensed agent or employee of such agent shall divide fees with any superintendent, manager, foreman or other employee of any person, company, corporation or association for services in procuring help.

13. No agent shall send or cause to be sent any female help or servant to any place of bad repute, house of ill-fame or assignation house or to any house or place of amusement kept for immoral purposes.

14. No licensed agent shall publish or cause to be published any false information or make any false promise, concerning or relating to work or employment to any one who shall register for employment or make any false entries in the register to be kept as herein provided.

15. The secretary of the bureau of labour or his agent may examine at any time the records, books, and any papers relating to the conduct of any employment agency within the province and shall investigate any complaint made against an employment agency.

16. No private employment agent shall print, publish or paint on any sign or window or insert in any newspaper or publication a name containing the words "Bureau of Labour" or likely to create the belief that the place designated is the provincial bureau of labour.

17. No licensed agent shall send an applicant to any place for employment without having obtained a *bona fide* order therefor.

18. Every person who conducts an employment office without first obtaining a license therefor or who having been licensed gives false information or makes a misrepresentation or false promise or fails to keep the register prescribed in section 6 or wilfully makes false entry in such register or violates any other provision of this Act shall upon summary conviction be liable to a penalty of not exceeding one hundred dollars or to imprisonment for a term not exceeding one month, with or without hard labour, and his license may be cancelled in the discretion of the justice hearing the case.

19. Any justice before whom a complaint under this Act is tried who finds that the accused person is liable under the provisions hereof to pay a sum of money to the informant may order payment with costs of prosecution and that in default of payment forthwith the defaulter shall be imprisoned for a term not exceeding one month unless the amount with costs of commitment and of conveying such person to the place of imprisonment be sooner paid.

20. The provisions of this Act shall not apply to persons whose agency is confined to supplying positions in connection with educational institutions.

21. The Lieutenant-Governor in Council shall have power to make such provisions and regulations not contrary to law or inconsistent with the provisions of this Act, and prescribe such additional forms, as may be necessary for the better carrying out of its provisions and purposes.

(Schedule omitted.)

#### Payment of Wages—Truck System.

Chapter 40.—1. In every contract hereafter to be made for the hiring of a workman in any of the occupations contained in the schedule to this Act the wages of such workman shall be made payable in Canadian currency or in the notes of a chartered bank doing business in Canada or by cheques drawn upon and duly accepted by a chartered bank having a branch or agency at or within five miles of the place where the workman is employed; any contract providing for payment in any other manner shall be illegal and void.

2. If in any contract hereafter to be made between any such workman and his employer any provision is contained respecting the place where or the manner in which or the person with whom the whole or any part of the wages of such workman shall be expended such contract shall be illegal and void.

3. The entire amount of the wages of every such workman shall be paid him in Canadian currency or in the notes of a chartered bank doing business in Canada or by accepted cheque as aforesaid at the end of every seven days if his employment does not sooner cease, or at the time it ceases if the employment is for a period of less than seven days; and every payment made in respect of such wages by the delivery to the workman of goods or otherwise than as before mentioned shall be illegal and void.

4. Every such workman shall be entitled to recover from his employer in the manner by law provided for the recovery of servants' wages or by any other lawful means so much of his wages as shall not have been paid to him in the manner authorized by this Act; and in any action, suit or other proceeding to be hereafter brought by a workman against his employer for the recovery of money due as the wages of labour, the defendant shall not set off nor claim any reduction of the plaintiff's demand by reason of the delivery to him of goods, wares or merchandise on account of wages, or by reason of goods, wares or merchandise sold, delivered or supplied to such workman at a shop or warehouse of the employer or in the profits of which he has an interest.

5. No employer shall maintain a suit or action against a workman for or in respect of goods, wares or merchandise sold, delivered or supplied to the workman whilst in his employment on account of wages or for goods, wares or merchandise sold, delivered or supplied to such workman at a shop or warehouse of the employer or in the profits he has an interest.

6. Any employer who enters into a contract hereby declared illegal or makes payment in a manner hereby declared illegal or who refuses or neglects to pay his workmen as provided by this Act shall on summary conviction be liable to a penalty not exceeding \$50 and costs for the first offence and in default of payment forthwith to imprisonment for a period not exceeding twenty days; for a second or any further offence to a penalty in each case not exceeding \$100 and costs and in default of payment forthwith to imprisonment for a period not exceeding twenty days.

7. In this Act the expression "employer" shall include a person, partnership or corporation engaged in any of the occupations referred to in the schedule hereto, and in the case of an infringement of the Act such expression shall include the partners in a partnership, the president or other chief officer of a corporation as well as the business manager whose duty it is to see to the payment of employees.

#### SCHEDULE.

##### Persons to whom the Act Applies.

1. Persons employed by contractors at an hourly, daily or weekly wage in the construction of any building, sidewalk, pavement, sewer, drain, subway, bridge, street railway, telephone, telegraph or electric light or power plant.

2. Persons employed at a daily or weekly wage in any shop or store or in any establishment which comes under The Factories Act.

##### Payment of Wages or Cashing of Pay Cheque on Licensed Premises—Employment of Women and Minors in Bar Rooms—Licensing of Bar Tenders.

[Chapter 64, The Liquor License Act, contains provisions prohibiting the payment of wages or the cashing of pay cheques on licensed premises, and the employment of women and minors to serve intoxicants. It also provides for the licensing of bartenders. This Act, however, is repealed by the Saskatchewan Temperance Act, chapter 23, 1917.]

#### STATUTES OF 1915.

##### Liability of Directors of Companies for Employees' Wages.

Chapter 14.—103. The directors of a company shall be jointly and severally liable to the clerks, labourers, servants and apprentices thereof for all debts not exceeding six months' wages due for services performed for the company while they are such directors; but no director shall be liable for an action therefor unless the company is sued therefor within one year after the debt becomes due, nor unless such director is sued therefor within one year from the time when he ceased to be such director, nor unless an execution against the company is returned unsatisfied in whole or in part; and the amount unsatisfied on such execution shall be the amount recoverable with costs from the directors.

### Early Closing of Shops.

Chapter 16.—205. The council may by by-law require that during the whole or any part of the year any class of shops within the city shall be closed, and remain closed on each or any day of the week, during any time between six o'clock in the afternoon and five o'clock in the morning of the next following day.

(2) No such by-law shall be passed unless upon petition, and unless the council is satisfied that such petition is signed by not less than three-fourths in number of the occupiers of shops throughout the city belonging to the class to which such petition relates.

(3) No by-law passed under this section shall be repealed unless it appears to the council that more than one-third in number of the occupants of a class of shops affected thereby are opposed to its continuance, in which case the council may repeal the by-law in so far as it relates to such class.

(4) A pharmaceutical chemist or chemist and druggist shall not be liable to fine, penalty or punishment under any such by-law for supplying medicines, drugs or medical appliances after the hour appointed by such by-law for the closing of shops.

(5) Nothing in such by-law contained shall render the occupier of any premises liable to fine, penalty or punishment for supplying any article required for immediate use by reason or because of an emergency arising from sickness or death.

(6) "Shop" means any building or portion of a building, booth, stall or place where goods are exposed or offered for sale by retail, and barbers' shops; but not where the only trade or business carried on is that of a tobacconist, news agent, hotel, inn, tavern, victualling house or refreshment house or any premises wherein under license spirituous or fermented liquors are sold.

(7) "Closed" means not open for the serving of customers.

### Sunday Street Cars.

Chapter 16.—230. The council of any city may pass a referred bylaw declaring that section 236 of The Railway Act shall cease to apply to the operation within the city of any street railway, tramway or electric railway; and on, from and after the coming into force of such bylaw until the same is repealed as provided by subsection (2) hereof, the said section 236 of The Railway Act shall cease to apply to the operation within the said city of any street railway, tramway or electric railway.

(2) The council of any city shall also have power to pass a bylaw repealing any bylaw provided for by the preceding subsection hereof; and on, from and after the coming into force of such bylaw the said section 236 of The Railway Act shall apply to the operation within the said city of any street railway, tramway, or electric railway.

(3) Every such bylaw provided for by this section shall receive the assent of the majority of the persons voting thereon.

(4) The persons qualified to vote upon any bylaw provided by this section shall be the persons whose names appear in the last revised voters' list of the city.

(5) All the provisions of this Act respecting bylaws requiring the assent of the burgesses shall, in so far as they are not inconsistent with the provisions of this section, apply *mutatis mutandis* to proceedings upon a vote under the provisions of this section.

### Employers to Furnish Names of Employees to Assessor—Liability of Employers for Taxes of Employees.

[Chapter 16, The City Act, contains provisions respecting the assessment and collection of municipal taxes. Section 411 provides for the furnishing of information by employers on demand of the assessor as follows:]

411. It shall be the duty of every person employing any other person in his trade, manufacture, business or calling, to give to the assessor on demand information concerning the names and places of residence of all persons employed by him whose wages, salary or remuneration exceed \$200 per annum.

[Section 416 provides for a poll tax of \$3 on every male resident of full age, with certain specified exceptions. The mode of collection is set forth in section 417 as follows:]

417. A poll tax may be collected in the same manner as other municipal taxes, or may be recovered on summary conviction with costs against the person neglecting or refusing to pay the same; and the persons appointed to collect the tax may also demand the same from the employer of the person liable to pay it and the employer shall deduct the same from the salary or wages which are then or shall first thereafter during the then current year become owing by him to the person liable to pay such poll tax, and shall pay the same as soon as the amount of the tax is earned by his said employee to the person appointed to collect it and in default may on summary conviction be ordered to pay the same together with costs and in default of payment to imprisonment for a period not exceeding thirty days.

**Vocational Training—Industrial Classes.**

Chapter 23.—183. The board [of trustees] of any district, subject to the regulations of the department [of education] in that behalf, shall have power:

(1) To make such provision as it deems advisable for giving instruction in its schools in manual training, industrial training, domestic science and physical training;

(2) To make such provision as it deems advisable for industrial evening schools in which persons employed during the day may receive theoretical and practical instruction in the trades or occupations, with related instruction in English, mathematics, drawing, science, history and geography.

(3) To appoint an advisory committee of at least seven members, the persons so appointed to be resident ratepayers of the district and to be selected on the ground of competence to give advice and other assistance in the management of such classes or schools as may be established under the foregoing subsections.

184. Subject to the approval of the Minister, the board shall have authority,—

(a) To provide suitable accommodation and equipment for such schools and classes as may be established under clauses 1 and 2 of the preceding section;

(b) To prescribe subjects of study; and

(c) To make provision for examinations and diplomas.

185. The board shall have authority to employ and dismiss teachers and fix their salaries; to fix the fees payable by students in attendance; and to do all things necessary for carrying out clauses (1) and (2) of section 183 according to their true object and intent to any schools established thereunder.

**Employment of Children—School Attendance.**

[Chapter 23, The School Act, contains provisions in sections 191 to 197 inclusive respecting compulsory school attendance. These sections, however, are repealed by an amending Act, 1917, first session chapter 18. Chapter 19 of the same session, The School Attendance Act, now regulates school attendance and the employment of children during school hours.]

## ALBERTA.

## CONSOLIDATED ORDINANCES OF THE NORTHWEST TERRITORIES, 1898.

**Earnings of Minors—Suits for Wages.**

Chapter 21.—10. The law to be administered . . . as to the matters next herein after mentioned shall be as follows:

(13) Minors may sue for wages in the same way as if of full age.

**Early Closing in Shops.**

Chapter 70.—95. The council of every municipality may pass by-laws for:

(74) The enforcement of closing at any specified hour of all wholesale and retail shops, stores or other places where any mercantile business is carried on, provided the council is requested to do so by a petition signed by three-quarters of the rate-payers of the municipality who are engaged in any such line of business.

**Liability of Employers for Taxes of Employees.**

Chapter 70.—148. In case any person neglects or refuses to pay any income tax when demanded by the secretary treasurer the secretary treasurer shall then demand from the employer or employers of the person so neglecting or refusing the amount due for such income tax and the person paying the same shall deduct the amount so paid from the salary or wages due the person so neglecting or refusing and the said employer or employers are hereby rendered liable for the amount or amounts demanded by the secretary treasurer if they fail to deduct the same from the salary or wages due to the person employed.

165. Except members of Her Majesty's naval or military force on full pay or on actual service or of the Northwest Mounted Police force or of a fire company duly organized by by-law of the municipality every male inhabitant of a town municipality of the age of twenty-one years and upwards who has resided in the said town for a period of two months or more and has not been assessed on the assessment roll of the municipality shall be taxed at \$2 yearly.

(2) Persons residing within two miles of a town municipality who have a place of business therein and whose names are not on the assessment roll or who receive employment and are paid wages or salary therein are hereby liable to pay poll tax subject to the provisions of this Ordinance.

166. Any person liable to pay taxes imposed by the next preceding section shall pay the same to a collector appointed by bylaw of the council of the municipality to collect the same, within three days after the demand thereof by the said collector; and in case of neglect or refusal to pay the same within such time the said collector may levy the same by distress and sale of the goods and chattels of the defaulter with costs of the distress and sale:

Provided that in case any person neglects or refuses to pay the poll tax when demanded by the collector the collector shall then demand from the employer or employers of the person so neglecting or refusing, the amount due for such poll tax and the person paying the same shall deduct the same so paid from the salary or wages due to the person so neglecting or refusing and the said employer or employers are hereby rendered liable for the amount or amounts demanded by the collector if they fail to deduct the same from the salary or wages due to the person employed.

**Payment of Wages or Cashing Cheque on Licensed Premises—Employment of Women and Minors in Bar Rooms—Licensing of Bar Tenders.**

[Chapter 89, The Liquor License Ordinance, as amended by 1907, chapter 9, and 1909, chapter 5, contains provisions prohibiting the payment of wages or the cashing of pay cheques on licensed premises, and the employment of women and minors to serve intoxicants. It also provides for the licensing of bar tenders. This Ordinance, with all amendments thereto, is repealed, however, by The Liquor Act, chapter 4, 1916.]

**Sunday Labour.**

Chapter 91.—1. No merchant, tradesman, artificer, mechanic, workman, labourer or other person whatsoever shall on the Lord's day sell or publicly show forth or expose or offer for sale or purchase any goods, chattels, or other personal property or any

real estate whatsoever, or do or exercise any worldly labour, business or trade of his ordinary calling; travelling or conveying travellers or Her Majesty's mails, selling drugs and medicines and other works of necessity and works of charity only excepted.

4. Any person violating any of the provisions of this Ordinance shall be guilty of an offence and upon summary conviction thereof be liable to a fine not exceeding \$100 and costs of prosecution.

## ORDINANCES OF 1901.

### Liability of Directors of Companies for Employees' Wages.

Chapter 20.—54. The directors of a company shall be jointly and severally liable to the clerks, labourers, servants and apprentices thereof for all debts not exceeding six months' wages due for services performed for the company whilst they are such directors respectively; but no director shall be liable to an action thereof unless the company is sued therefor within one year after the debt becomes due nor unless such director is sued therefor within one year from the time when he ceased to be such director nor unless an execution against the company is returned unsatisfied in whole or in part; and the amount unsatisfied on such execution shall be the amount recoverable with costs from the directors.

## ORDINANCES OF 1903, FIRST SESSION.

### Wages as Preferred Claims—In Liquidations.

Chapter 13.—10. In distributing the assets of a company under the provisions of this Ordinance the liquidator shall pay in priority to the claims of the ordinary or general creditors of the company the wages or salary of all persons other than directors in the employment of the company at the time of the making of the winding up resolution or order, or within one month before the making thereof not exceeding three months wages or salary, and such persons shall be entitled to rank as ordinary or general creditors of the company for the residue, if any, of their claims.

## ORDINANCES OF 1904.

### Employment of Labour—General Provisions.

Chapter 3.—1. Every contract or hire of personal service shall be subject to the provisions of this Ordinance and if such contract is for any period more than one year it shall be in writing and signed by the contracting parties.

2. Any person engaged, bound or hired whether as clerk, journeyman, apprentice, servant, labourer, or otherwise howsoever, guilty of drunkenness or of absenting himself by day or night without leave from his proper service or employment or of refusing or neglecting to perform his just duties or to obey the lawful commands of his master or of dissipating his employer's property or effects shall be deemed guilty of a violation of his contract and upon summary conviction of one or more of the said violations forfeit and pay such sum of money not exceeding \$30 as to the justice or magistrate seems meet together with costs of prosecution; and in default of payment thereof forthwith shall be imprisoned for any period not exceeding one month unless the fine imposed and costs together with the costs of commitment and conveying such convicted person to the place of imprisonment be sooner paid.

3. Any justice, upon oath of any employee, servant or labourer, complaining against his master or employer concerning any non-payment of wages (not exceeding two months' wages, the same having been first demanded), illusage or improper dismissal by such master or employer may summon the master or employer to appear before him at a reasonable time to be stated in the summons and the justice shall examine into the matter of the complaint whether the master or employer appears or not; and upon due proof of the cause of complaint the justice may discharge the servant or labourer from the service or employment of the master and may direct the payment to him of any wages found to be due (not exceeding two months' wages as aforesaid), together with costs of prosecution the same to be levied by distress and sale of the goods and chattels of such master employer.



(2) In the event of the said justice determining that the servant or labourer has been improperly dismissed from the service of the master or employer he may in addition to directing the payment to him of any wages found to be due (not exceeding two months' wages as aforesaid), direct such master or employer to pay such servant or labourer such further amount as to him may seem reasonable, but not exceeding in any event four weeks' wages at the rate at which he was being paid by his master or employer when improperly dismissed as aforesaid, or an amount equal to the wages which would have been earned by such servant or labourer between the date of his dismissal and the date of the determination of the matter of the complaint by such justice had such servant or labourer continued in such employment at the rate at which he was being paid when improperly dismissed as aforesaid, whichever shall be greater, together with the costs of prosecution the same to be levied by distress and sale of the goods and chattels of such master or employer. 1911-12, c. 4, s. 11, part.

(3) In the event of the said justice determining that the servant or labourer has, for good and sufficient cause, been dismissed from the service of the master or employer he may in addition to directing the payment to him of any wages found to be due (not exceeding two months' wages as aforesaid), direct such master or employer to pay such servant or labourer an amount not exceeding the wages which would have been earned by such servant or labourer between the date of his dismissal and the date of the determination of the matter of the complaint by such justice had such servant or labourer continued in such employment at the rate at which he was being paid when dismissed as aforesaid, together with the costs of prosecution; which amount may be levied by distress and sale of the goods and chattels of such master or employer. 1911-12, c. 4, s. 11, part.

(4) If upon the inquiry by the justice it is made to appear by the oath of the master or employer or some person acquainted with the facts that such master or employer would or might be entitled, in a civil action by the complainant, for the recovery of the wages claimed to be due for the services rendered or for improper dismissal or both, to a claim by way of set off or counter-claim such justice shall in a summary manner inquire into such set off or counter-claim, and if he determines that the right to such set off or counter-claim is established, direct the payment to the complainant of the wages determined to be due to him after deducting therefrom the amount for which such justice is of the opinion that the employer or master is entitled to such set off or counter-claim, together with the costs of prosecution, or if such amount is equal to or greater than the wages determined to be due to the complainant the justice shall dismiss such complaint. 1911-12, c. 4, s. 11, part.

(5) Nothing herein contained shall be deemed to prejudice or in any way affect the right of any master or employer, or his administrators, executors, or assigns, to any civil remedy to which he or they might be entitled against such servant or labourer by reason of such set off or counter-claim. 1911-12, c. 4, s. 11, part.

4. Proceedings may be taken under this Ordinance within three months after the engagement or employment has ceased or been terminated or within three months after the last instalment of wages under the agreement of hiring has become due whichever shall last happen.

5. The provisions of this Ordinance shall be held to apply in the Territories to contracts and agreements made at any place outside the same.

6. Nothing in this Ordinance shall in any wise curtail, abridge or defeat any civil or other remedy for the recovery of wages or damages which employers or masters may have against servants or employees or which servants or employees may have against their masters or employers.

7. The term "master", or "employer", wherever used in this Ordinance shall include a corporation as well as an individual or partnership.

8. Chapter 50 of the Consolidated Ordinances, 1898, and all amendments thereto are hereby repealed.

## STATUTES OF 1906.

### Mechanics' Liens.

Chapter 21 with amendments.—1. This Act may be cited as The Mechanics' Lien Act.

#### Interpretation.

2. In the construction of this Act—

(1) "Court" or "judge" shall mean the court with the province exercising jurisdiction in civil causes to the amount claimed in the action or proceeding whether brought in respect of one lien or more than one lien; and the interpretation herein given shall for all purposes be deemed to have been included in the original Act. 1908, c. 20, s. 12 (1).

(2) "Contractor" shall mean a person employed directly by the owner for doing the work or placing or furnishing materials for any of the purposes mentioned in this Act.

(3) "Subcontractor" shall mean a person not contracting with or employed directly by the owner for the purpose aforesaid, but contracting with or employed by the contractor or under him, by another subcontractor, to do all or a certain portion of the work or to place or furnish material, but a person doing manual or metal labour for wages shall not be deemed a "subcontractor".

(4) "Owner" shall extend to and include a person having any estate or interest, legal or equitable, in the lands upon or in respect of which the work is done or materials are placed or furnished, at whose request and upon whose credit or on whose behalf, or with whose privity or consent, or for whose direct benefit any such work is done or materials are placed or furnished, and all persons claiming under him whose rights are acquired after the work in respect to which the lien is claimed is commenced or the materials furnished have been commenced to be furnished.

(5) "Works or improvements" shall include every act or undertaking for which a lien may be claimed under this Act.

(6) "Labourer" shall mean, extend to and include every mechanic, miner, artisan, builder, or other person doing labour for wages.

(7) "Material" shall include every kind of moveable property.

(8) "Wages" shall mean money earned by a labourer, for work done whether by time or as piece work.

#### Application.

3. This Act shall apply to any contract made or work begun previous to the passage hereof, but only so far as regards any moneys remaining unpaid and as respects any such unpaid moneys.

#### Nature of Liens.

4. Unless there is an agreement in writing to the contrary signed by the person claiming the lien, every contractor, subcontractor, labourer, and furnisher of material doing or causing work to be done upon or placing or furnishing any materials to be used in or for the construction, erection, alteration or repairs, either in whole or in part of, or addition to, any building, tramway, railway, erection, wharf, bridge or other work, or doing or causing work to be done upon, or in connection with, or the placing or furnishing of materials to be used in or for the clearing, excavating, filling, grading, track-laying, draining, or irrigating of any land in respect of a tramway, railway, mine, sewer, drain, ditch, flume, or other work, or improving any street, road or sidewalk adjacent thereto, at the request of the owner of such land, shall by virtue thereof, have a lien or charge for the price of such work, and the placing or furnishing of such materials upon such building, erection, wharf, machinery, fixture, or other works, and all materials furnished or produced for use in constructing or making such works or improvements so long as the same are about to be in good faith worked into or made part of the said works or improvements, and the land, premises, and appurtenances thereto, occupied thereby or enjoyed therewith, but limited in amount as hereinafter mentioned:

Provided such lien shall affect only such interest in the said land, premises and appurtenances thereto as is vested in the owner at the time the works or improvements are commenced, or any greater interest the owner may acquire during the progress of the works or improvements, or have at any time during which the lien stands as an incumbrance against said land.

5. When any material is brought upon any land to be used in connection with such land for any of the purposes enumerated in the last preceding section hereof, the same shall be subject to a lien for the unpaid price thereof in favour of any person supplying the same until it is put or worked into the building, erection or work as part of the same.

6. No agreement shall be held to deprive any one otherwise entitled to a lien under this Act and not a party to the agreement of the benefit of the lien and the lien shall attach notwithstanding such agreement.

7. The taking of any security for, or the acceptance of any promissory note for, or cheque which on presentation is dishonoured, or the taking of any other acknowledgment of the claim, or the taking of any proceedings for the recovery of the claim or the recovery of any personal judgment for the claim, shall not merge, waive, pay, satisfy, prejudice, or destroy any lien created by this Act, unless the lienholder agrees in writing that it shall have that effect:

Provided, however, that a person who has extended the time for payment of any claim for which he has a lien under this Act to obtain the benefit of this section shall institute proceedings to enforce such lien within the time limited by this Act, but no further proceedings shall be taken in the action until the expiration of such extension of time:

Provided further, that notwithstanding such extension of time, such person may, where proceedings are instituted by any other person to enforce a lien against the same property, prove and obtain payment of his claim in such suit or action as if no such extension had been given.

8. Such lien shall be limited in amount to the sum actually owing to the person entitled to the lien.

9. Where works or improvements are put upon mortgaged premises, the liens by virtue of this Act shall be prior to such mortgage, as against the increase in value of the mortgaged premises by reason of such works or improvements, but not further, unless the same is done at the request of the mortgagee in writing; and the amount of such increase shall be ascertained upon the basis of the selling value upon taking of the account, or by the trial of an action or issue as provided herein, and thereupon the judge may, if he shall consider the works or improvements of sufficient value to justify the proceedings, order the mortgaged premises to be sold at an upset price equal to the selling value of the premises immediately prior to the commencement of such works or improvements (to be ascertained as aforesaid) and any sum realized in excess of such upset price shall be subject to the liens provided for by this Act. The moneys equal to the upset price as aforesaid shall be applied towards the said mortgage or mortgages, according to their priority. Nothing, however, in this section shall prevent the lien from attaching upon the equity of redemption or other interest of the owner of the land subject to such mortgage or charge.

(a) "Mortgage" in this section shall not include any part of the principal sum secured thereby not actually advanced to the borrower at the time the works or improvements are commenced, and shall include a vendor's lien and an agreement for the purchase of land, and for the purposes of this Act and within the meaning thereof the purchaser shall be deemed a mortgagor and the seller a mortgagee.

10. Without prejudice to any liens which he may have under the preceding sections every mechanic, labourer or other person who performs labour for wages upon the preconstruction, alteration or repairs of any building or erection, or in erecting or placing machinery of any kind in, upon or in connection with any building, erection or mine shall to the extent of the interest of the owner have upon the building, erection or mine and the land occupied thereby or enjoyed therewith a lien for such wages, not exceeding the wages of six weeks or a balance equal to his wages for six weeks.

(2) The lien for wages given by this section shall attach when the labour is in respect of a building, erection or mine on property belonging to the wife of the person at whose instance the work is done, upon the estate or interest of the wife in such property as well as upon that of her husband.

11. Every building or other improvement mentioned in the fourth section of this Act, constructed upon any lands with the knowledge of the owner or his authorized agent, or the person having or claiming any interest therein, shall be held to have been constructed at the request of such owner, or person having or claiming any interest therein, unless such owner or person having or claiming an interest therein shall, within three days after he shall have obtained knowledge of the construction, alteration or repair, give notice that he will not be responsible for the same, by posting a notice in writing to that effect in some conspicuous place upon said land or upon the building or other improvement thereon.

(2) Whenever such owner or such person, not having contracted for or agreed to such construction, alteration, repair, works or improvements being done or made, but who has failed to give said notice within the said three days, shall post a notice in writing in some conspicuous place upon said land, or upon the buildings or improvements thereon, to the effect that he will not be responsible for the works or improvements, no works or improvements made after such posting shall give any right as against such owner or person, or his interest in said land, to a lien under this Act.

12. Where any of the property upon which a lien is given by this Act is wholly or partly destroyed by fire, any insurance receivable thereon by the owner, prior mortgagee or chargee, shall take the place of the property so destroyed, and shall after satisfying any prior mortgage or charge in the manner and to the extent set out in section 9 hereof be subject to the claims of all persons for liens to the same extent as if such moneys were realized by the sale of such property in an action to enforce a lien.

13. Every lien upon such building, erection, mine works or improvements, or land, shall absolutely cease to exist after the expiration of thirty-five days, except in the case of a claim for wages owing for work in, at or about a mine, in which case the lien shall cease after the expiration of sixty days after the claimant has ceased from any cause to work thereon, or place or furnish the materials therefor; provided, however, that any labourer shall not be held to have ceased work upon any building, erection, mine, works or improvements until the completion of the same, if he has in the meantime been employed upon any other work by the same contractor, unless in the meantime the person claiming the lien shall file in the Land Titles Office of the Land Registration

in which the land is situate or in the office of the Clerk of the Superior Court of the Province in the Judicial District in which the land lies, an affidavit, sworn before any person authorized to take oaths, stating in substance:

- (a) The name and residence of the claimant, and of the owner of the property or interest to be charged;
- (b) The particulars of the kind of works or improvements done, made or furnished;
- (c) The time when the works or improvements were finished or discontinued;
- (d) The sum claimed to be owing and when due;
- (e) The description of the property to be charged;
- (f) The address for service of the claimant;

which affidavit shall be received and filed as a lien against the property, interest or estate. Every Registrar under the Land Titles Act, and every such clerk shall be supplied with printed forms of such affidavits in blank, which may be in the form or to the effect of Schedule A to this Act, and which shall be supplied to every person requesting the same and desiring to file a lien. Every such Registrar and Clerk shall keep an alphabetical index of all claimants of liens, and the persons against whom such liens are claimed, which index shall be open for inspection during office hours, and it shall be the duty of such Registrar and Clerk to decide whether his is or is not the proper office for the filing of such affidavits, and to direct the applicant accordingly; and no affidavit shall be adjudged insufficient on the ground that it was not filed in the proper registry office or clerk's office. The said claim of lien may be described as a Mechanic's Lien:

Provided, however, that no lien shall be filed unless the claim or joined claims shall amount to or aggregate \$20 or more. 1915, c. 2, s. 27.

(2) Upon the filing of such affidavit in any such Land Titles Office the Registrar shall enter and register the claim as an encumbrance against the land or the estate or interest in the land therein described as provided in The Land Titles Act.

(3) Upon the filing of such affidavit in the office of any such clerk the clerk shall forthwith transmit to the Registrar of the Land Registration District in which the land lies a certificate of the filing of such lien in his office, and specifying the particulars in the affidavit contained, and upon the receipt by the said Registrar of such certificate he shall enter and register the claim as an encumbrance against the land or the estate or interest in the land therein described as provided in The Land Titles Act.

14. A substantial compliance only with section 13 of this Act shall be required and no lien shall be invalidated by reason of failure to comply with any of the requisites thereof, unless in the opinion of the court or judge adjudicating upon the lien under this Act the owner, contractor, subcontractor, mortgagee or other person is prejudiced thereby, and then only to the extent to which he is prejudiced, and the court or judge may allow the affidavit and statement of claim to be amended accordingly.

15. In the event of the death of a lien holder his lien shall pass to his personal representatives, and the right of a lien holder may be assigned by any instrument in writing subject to the limitations contained in section 17 hereof.

16. During the continuance of any lien no portion of the property affected thereby shall be removed to the prejudice of such lien and any attempt at such removal may be restrained on application to the court or judge.

17. No contractor, or subcontractor shall be entitled to demand or receive any payment in respect of any contract, where the contract price exceeds \$500, until he or some person in charge of the works or improvements shall post upon the works or improvements a copy of the receipted pay-roll, from the hour of 12 m. to the hour of 1 p.m. on the first legal day after pay day, and shall have delivered to the owner, or other person acting on his behalf, the original pay-roll containing the names of all labourers who have done work for him upon such works or improvements, with a receipt in full from each of the said labourers, with the amounts which were due and had been paid to each of them set opposite their respective names, which pay-roll may be in the form of Schedule C hereto, and no payment made by the owner without the delivery of such pay-roll shall be valid for the purpose of defeating or diminishing any lien upon such property, estate or interest in favour of any such labourer. No assignment by the contractor or any subcontractor of any moneys due in respect to the contract shall be valid as against any lien given by this Act. As to all liens, except that of the contractor, the whole contract price shall be payable in money, and shall not be diminished by any prior or subsequent indebtedness, offset or counterclaim in favour of the owner against the contractor.

Provided, however, that the failure to comply with the provisions of this section respecting the posting of the receipted pay roll and delivery of the same shall not prejudice the right of lien of the contractor or subcontractor so in default, or his right to maintain an action or other proceeding to enforce the same, but the court or judge on application may at any stage before trial order a stay of proceedings until proof be made to his satisfaction that all workmen employed by such contractor or subcontractor on such works or improvements have been paid in full, and may in such order limit

the time within which such proof may be furnished, and if the same be not furnished to the satisfaction of such court or judge, such action may be dismissed and in any such action or proceeding the court or judge may in his discretion award costs against the plaintiff in any event and notwithstanding that he may have successfully maintained his action to judgment. 1908, c. 20, s. 12 (2).

#### Enforcement.

18. Any number of lienholders may be joined in one suit and all suits or proceedings brought by a lienholder shall be taken to be brought on behalf of all lienholders who may be made parties to such suits or proceedings within the time mentioned in section 35 hereof:

Provided that the moneys realized in such suit shall be distributed amongst the lienholders, parties to such suit or proceedings, in the order and manner provided in section 30 of this Act. Any lienholder not originally joined may be made a party to such suit or proceedings by order of a judge, upon *ex parte* application supported by an affidavit stating the particulars of the claim, and any lienholder so joined in any such suit or proceedings shall be deemed to have complied with section 35 of this Act as fully as if he had instituted a suit in his own behalf.

19. If more than one suit is commenced in respect of the same contract, the owner or contractor shall apply to have the causes consolidated, and failing to do so he shall pay the costs of such additional suit or suits. Save as hereinafter mentioned the owner complying with the provisions of this Act shall not be liable for any greater sum than he has agreed to pay by contract.

20. If two or more actions are brought in respect of the same contract or work the court or judge may, by order, on the application of any person interested, consolidate all the actions, and may make such order as to costs as he shall think fit.

21. Proceedings to enforce a lien or liens under this Act may be taken before the court or a judge in a summary way by originating summons subject to the provisions in that behalf of The Judicature Ordinance, and of the rules of court, which are now or which shall hereafter be in force in the province. The court or judge upon the return of the summons may either proceed to take the accounts and make the necessary inquiries for the purpose of determining the matter, or he may try or direct the trial of any issue or issues in relation thereto as he shall think necessary, and he may give directions as to the conduct of any such issue, the parties thereto, pleadings, particulars, production and discovery therein (if any such proceedings be by him thought necessary) and any other directions he shall deem advisable for the proper disposal and trial thereof; and in default of payment of any amount that shall be found to be due the court or a judge may direct the sale of the estate or interest charged and such further proceedings may be taken for the purposes aforesaid as the court or judge may think proper, and any conveyance under the seal of such court or judge shall be effectual to pass the estate or interest sold and the fees and costs in all proceedings so taken shall be such as are payable according to the ordinary procedure of the said court, and except as herein otherwise provided the proceedings shall be as nearly as possible according to the practice and procedure in force in the said court. 1909, c. 4, s. 10, part.

22. Proceedings to enforce a lien or liens under this Act may also be taken by suit in the ordinary way, provided, however, that the court or judge before whom such action is tried may in dealing with the question of the costs of such action take into consideration the difference in costs occasioned by reason of an action having been brought instead of proceedings having been taken by originating summons as provided in section 21 hereof, and may make such order as to costs therein, both as between solicitor and client as well as between party and party as to him shall seem just. 1909, c. 4, s. 10, part.

23. There shall be an appeal to the Supreme Court *en banc* from the decision of the court or a judge hereunder in all matters where the amount of the lien or the total amount of the liens joined in one action or proceedings is \$200 or over, but where the amount of the lien or the total of amount of the liens so joined is less than \$200 the decision of the court or judge of first instance shall be final. 1909, c. 4, s. 10, part.

24. Upon the hearing of any claim for a lien the court or judge may so far as the parties before him, or any of them, are debtor and creditor, give judgment against the former in favour of the latter for any indebtedness or liability arising out of the claim in the same manner and to the same extent as if such indebtedness or liability had been sued upon in the said court in the ordinary way, without reference to this Act.

25. Any person against whose property a lien has been registered under the provisions of this Act may apply to the court or judge on an affidavit setting forth the registry of the same, and that hardship or inconvenience is experienced, or is likely to be experienced thereby, with the reasons for such statement, for a summons calling upon the opposite party to show cause why such lien should not be cancelled upon sufficient security being given. Such summons, together with a copy of the affidavit on which

the same is granted, shall be served on the opposite party and made returnable in three days after the issuing thereof, or in such greater or less time as the judge may direct.

26. On the return of such summons the court or judge may order the cancellation of such lien, either in whole or in part, upon the giving of security by the party against whose property the said lien is registered to the opposite party, in an amount satisfactory to the said court or judge, and upon such other terms, if any, as the court or judge may see fit to impose.

27. The Registrar in whose office the said lien is registered shall, on the production of such order, file the same and cause the said lien to be cancelled as to the property affected by the order.

28. When it shall appear to the court or judge in any proceedings to enforce a lien or liens under this Act that such proceedings have arisen from the failure of any owner or contractor to fulfil the terms of his contract or engagement for the work in respect of which the liens are sought to be enforced or to comply with the provisions of this Act such court or judge may order the said owner or contractor, or either of them, to pay all the costs of such proceedings, in addition to the amount of the contract, or subcontract, or wages due by him or them to any contractor, subcontractor, or labourer, and may order a final judgment against such contractor or owner, or either of them, in default, for such costs, with execution as provided in section 21 of this Act.

29. If the property sold in any proceedings under this Act shall be a leasehold interest, the purchaser at any such sale shall be deemed to be the assignee of such lease.

30. All moneys realized by proceedings under this Act shall be applied and distributed in the following order:—

First. The costs of all the lienholders of and incidental to the proceedings, and of registering and proving the liens;

Second. Six weeks' wages (if so much be owing) of all labourers employed by the owner, contractor or subcontractor;

Third. The several amounts owing for material, placed or furnished, in respect of the works or improvements;

Fourth. The amounts owing the subcontractor and other persons employed by the owner and contractor;

Fifth. The amount owing the contractor.

(2) Each class of lienholders shall rank *pari passu* for their several amounts, and the portions of said moneys available for distribution shall be distributed among the lienholders *pro rata* according to their several classes and rights.

(3) Any balance of said moneys remaining after all the above amounts have been distributed shall be payable to the owner or other person legally entitled thereto:

Provided, however, that when any labourer has more than six weeks' wages owing to him by any subcontractor, contractor or owner, the court or judge shall cause the extra sum beyond six weeks' wages to be deducted out of any sum actually coming under the above distribution to such subcontractor, contractor or owner, and shall order the same to be paid to such labourer.

31. Every device by an owner, contractor or subcontractor, adopted to defeat the priority given to wage-earners for their wages by this Act shall, as against such wage-earners, be null and void.

32. No lien, except for not more than six weeks' wages in favour of labourers, shall attach so as to make the owner liable for a greater sum than the sum owing by the owner to the contractor at the time of the receipt by the owner or person having superintendence of the work on behalf of the owner, of notice in writing of such lien and of the amount thereof; or which may become owing by the owner to the contractor at any time subsequent thereto while such lien is in effect.

(2) Where more than one such notice is given by a lienholder to the owner in regard to material furnished to the same contractor the lienholder shall in the latest notice so given state the total amount or balance owing at the time of the giving of such latest notice by the contractor to the lienholder, and in default of such total amount or balance being so stated it shall, with respect to any payments made by the owner, be taken to be the amount of the lien mentioned in the said latest notice and no lien or liens of such lienholder shall attach so as to make the owner liable for more than the amount or the total amount or balance so ascertained.

(3) Where notice of a lien has been given as in this section provided the lienholder shall upon request furnish to the contractor or owner a statement in writing of the amount or balance due and payable in respect of the material, for the supplying or furnishing of which such lien is claimed, and no lien or liens of such lienholder for material supplied or furnished up to the time of giving of such statement shall attach so as to make the owner liable for any greater sum than is so stated.

(4) The contractor or owner may apply to the court by originating summons as set out in The Judicature Ordinance, to compel any lienholder who refuses or neglects to



do so, to furnish such a statement as in the next preceding subsection required or with respect to the accuracy of any statement furnished in accordance with the provisions of this section, and the court may upon such application make such order in the premises and as to the costs of the application as to the court shall seem just. 1908, c. 20, s. 12 (4).

33. Where any mechanic, artisan, machinist, builder, miner, contractor or any other person has furnished or procured materials for use in the construction, alteration or repair of any building, erection or mine at the request of and for some other person, such materials shall not be subject to execution or other process to enforce any debt (other than for the purchase thereof) due by the person furnishing or procuring such materials, and whether the same have or have not been in whole or in part worked into or made part of such building or erection.

34. Every mechanic or other person who has bestowed money or skill and materials upon any chattel in the alteration and improvement of its properties, or increasing its value, so as thereby to become entitled to a lien upon such chattel or thing for the amount or value of the money, skill, or materials bestowed, shall, while such lien exists but not afterwards, in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid, have power to sell the chattel in respect of which the lien exists, on giving two weeks' notice by advertisement in a newspaper published in the city, town or Judicial District in which the work was done, or in case there is no newspaper published in such city, town or Judicial District, then in a newspaper published nearest thereto, stating the name of the person indebted, the amount of his indebtedness, a description of the chattel to be sold, the time and place of sale; and after such sale such mechanic or other person shall apply the proceeds of such sale in payment of the amount due to him, and the costs of advertising and sale, and shall pay over the surplus (if any) to the person entitled thereto on application being made to him therefor and a notice in writing of the result of the sale shall be left at or posted to the address of the owner at his last known place of abode or business.

#### Expiration, Cancellation and Discharge.

35. Every lien in respect of which an affidavit has been filed against the title of any land or any interest therein shall be deemed to have lapsed after the expiration of sixty days after service, in the manner in which service of process is usually made and proved to the satisfaction of the registrar of land titles for the district in which the said affidavit has been filed, of a notice in form A in the schedule D to this Act, or to the like effect, shall have been made upon the lienholder, unless before the expiration of the said period of sixty days the lienholder shall have taken proceedings in court to enforce his lien and shall have filed or caused to have been filed a certificate thereof in form B in the schedule D to this Act, or to the like effect, in the land titles office for the said district.

Provided that the court or judge may, upon an *ex parte* application shorten the said period of thirty days to such period as he shall specify in such order, and a copy of such order shall be served with the notice in this section referred to.

(2) Such certificate may be granted by the court or judge in which or before whom proceedings are instituted or by the clerk of such court. 1915, c. 2, s. 27 (2).

36. The Registrar of the Land Registration District shall, on receiving a certificate under the seal of the clerk of the court wherein any action in respect of any lien registered in The Land Titles Office within the jurisdiction of such Registrar is pending, stating the names of the lienholders, parties to such action and that the amount due by the owner in respect of such liens has been ascertained and paid into court in pursuance of an order of such court or judge or that the property has been sold to realize such liens or that such lien has been improperly filed, or that such lien has otherwise ceased to exist or, on receiving a statement in writing signed by the claimant or his agent that the lien has been satisfied, cancel all liens registered by such parties.

37. Every person making or entering into any contract, engagement or agreement with any other person for the purpose of furnishing, supplying or obtaining timber or logs, by which it is requisite or necessary to engage and employ workmen and labourers in the obtaining, supplying and furnishing such logs or timber as aforesaid, shall, before making any payment for, or on behalf of or under such contract, engagement or agreement, of any sum of money, or by kind, require such person to whom payment is to be made to produce and furnish a pay roll or sheet of the wages and amount due and owing and of the payment thereof, which pay roll or sheet may be in the form of Schedule C annexed to this Act, or if not paid, the amount of wages or pay due and owing to all the workmen or labourers employed or engaged on or under such contract, engagement or agreement, at the time when the said logs or timber is delivered or taken in charge for or by or on behalf of the person so making such payment and receiving the timber or logs.



38. Any person making any payment under such contract, engagement or agreement without requiring the production of the pay roll or sheet as mentioned in section 37 of this Act shall be liable at the suit of any workman or labourer so engaged under said contract, engagement, or agreement, for the amount of pay so due and owing to said workman, or labourer, under said contract, engagement or agreement.

39. The person to whom such pay roll or sheet is given shall retain, for the use of the labourers or workmen whose names are set out in such pay roll or sheet, the sums set opposite their respective names which have not been paid, and the receipt or receipts of such labourers or workmen shall be a sufficient discharge therefor.

40. The judges of the said court, or any two of them, may make general rules and regulations, not inconsistent with this Act, for expediting and facilitating the business before such court under this Act, and for the advancement of the interests of suitors therein.

41. Nothing in this Act contained shall be construed to affect any Mechanics' Lien filed or registered or the rights or liabilities of any person by or against whose property any Mechanics' Lien has been filed or registered prior to the coming into force of this Act; and all such liens may be enforced in the same manner as though this Act had not been passed.

42. Save as herein provided The Mechanics' Lien Ordinance of the Northwest Territories and all amendments thereto are hereby repealed.

(Schedule omitted.)

## STATUTES OF 1907.

### Wages as Preferred Claims—In Assignments.

Chapter 6.—28. In case of an assignment under this Act the assignee shall pay in priority to the claims of the ordinary or general creditors of the person making the same the wages or salary of all persons in the employ of such person at the time of the making of such assignment or within one month before the making thereof, not exceeding three months' wages or salary, such wages or salary to be for arrears only and not for any unearned portion; and such persons shall be entitled to rank as ordinary or general creditors for the residue, if any, of their claims for arrears of such wages or salary; the provisions of this section shall apply to wages or salary whether the employment in respect of which the same may be payable by the day, week, month or year.

(2) The wages in respect of which priority is herein conferred shall become due and be payable by the assignee within one month from the time when the estate which is being wound up or distributed shall have been received by or placed under the control of such assignee unless it shall appear to him that the said estate is not of sufficient value to pay the ordinary expenses and disbursements of winding up and distributing the said estate; but such ordinary expenses shall not include the cost of litigation or other unusual expenses concerning the estate or any part thereof, unless the persons entitled to the said preferential claim for wages shall have consented in writing to such proceedings being taken before they were commenced or shall afterwards have adopted or ratified in writing such proceedings.

### Railways—Definition of Terms.

Chapter 8 with amendment.—1. This Act may be cited as The Railway Act.

2. In this Act and in the special Act incorporating any railway company to which this Act applies where the following words occur they shall be construed in the manner hereinafter mentioned unless a contrary intention appears:

(1) The expression "special Act" means any act under which the company has authority to construct or operate a railway or which is enacted with special reference to such railway and includes all such Acts;

(6) "Minister" means the Chairman of the Executive Council of Alberta. 1909, c. 5, s. 11, ss. (1).

(11) "Highways" shall mean any public road, street, lane or other public way or communication;

(14) "The Company" shall mean the company or person authorized by the special Act to construct the railway and shall include all persons or corporations leasing or operating any railway;

(15) "The railway" means the railway which by the special Act the company is authorized to construct or operate and includes all branches, sidings, stations, depots, wharves, rolling stock, equipment, stores, property real or personal and works connected therewith and also any railway bridge, tunnel or other structure which the company is authorized to construct;

(17) "Train" includes any engine, locomotive or other rolling stock.

### Railways—Application of Act.

Chapter 8.—3. The provisions of this Act shall apply to all railways heretofore or hereafter authorized to be constructed by any special Act of the province and said provisions shall in so far as they are applicable to the undertaking and unless they are expressly varied or excepted therefrom by the special Act be incorporated with the special Act form part thereof and be construed therewith as forming one Act.

4. Any section of this Act may by any special Act be excepted from incorporation therewith or may thereby be extended, limited or qualified, and it shall be sufficient for the purposes of this section to refer to any section of this Act by its number merely; and unless otherwise expressly provided in this Act where the provisions of this Act and of any special Act of the province relate to the same subject matter the provisions of the special Act shall be taken to override the provisions of this Act in so far as is necessary to give effect to such special Act.

### Telegraph Wires, etc., over Railways.

Chapter 8.—139. Subject to the provisions of subsections (2) and (3) of this section the company may construct and operate an electric telegraph line and a telephone line throughout and along the whole line of railway and the branches thereof or any part of the said railway or branches for the purposes of its undertaking.

(2) No lines or wires for telegraphs, telephones or the conveyance of light, heat, power or electricity shall be erected, placed or maintained across the railway without leave of the Minister.

(3) Upon any application for such leave the applicant shall submit to the Minister a plan and profile of the part of the railway proposed to be affected showing the proposed location of such lines and wires and works contemplated in connection therewith; and the Minister may grant such application and may order by whom, how, when and on what terms and conditions and under what supervisions such work shall be executed; and upon such order being made such lines and wires may be erected, placed, and maintained across the railway subject to and in accordance with such order.

### Railway Bridges, Tunnels, etc.

Chapter 8.—151. Every bridge, tunnel or other erection or structure over, through or under which any railway now or hereafter passes shall be so constructed and if need be reconstructed or altered within such time as the Minister may order and shall thereafter be so maintained as to afford at all times an open and clear headway of at least seven feet between the top of the highest freight car used on the railway and the lowest beams, members or portions of that part of such bridge, tunnel, erection or structure which is directly over the space liable to be traversed by such car in passing thereunder; but in no case shall the space between the rail level and such beams, members or portions of any such structure hereafter constructed be less than twenty-two feet six inches unless by leave of the Minister.

(2) If in any case it is necessary to raise, reconstruct, or alter any bridge, tunnel, erection or structure not owned by the company the Minister upon application of the company and upon notice to all parties interested or without any application may make such order allowing or requiring such raising, reconstruction or alteration upon such terms and conditions as to him shall appear just and proper and in the public interest.

(3) The Minister may exempt from the operation of this section any bridge, tunnel, erection or structure over, through or under which no trains are run except such as are equipped with air brakes.

(4) Every company or owner shall incur a penalty not exceeding fifty dollars for each day of wilful neglect, omission or refusal to obey the provisions of this section.

152. With respect to all bridges, tunnels, viaducts, trestles or other structures through, over or under which the company's trains are to pass the span or proposed span or spans or length of which exceeds eighteen feet the company shall not commence the construction or reconstruction of or any material alteration in any such bridge, viaduct, tunnel, trestle or other structure until leave therefor has been obtained from the Minister unless such construction, reconstruction or alteration is made in accordance with standard specifications and plans approved of by the Minister.

(2) Upon any application to the minister for such leave the company shall submit to the Minister the detail plans, profiles, drawings and specifications of any such work proposed to be constructed and such other plans, profiles, drawings and specifications as the minister may in any case or by regulation require.

### Fair Wages for Labourers on Subsidized Railways.

Chapter 8.—153. In every case in which the Legislative Assembly grants financial aid by way of subsidy or guarantee towards the cost of railway construction all mechanics, labourers or other persons who perform labour in such construction shall be paid such wages as are generally accepted as current for competent workmen in the district in which the work is being performed; and if there is no current rate in such district then a fair and reasonable rate; and in the event of a dispute arising as to what is the current or a fair and reasonable rate it shall be determined by the Minister whose decision shall be final.

### Liability of Railway Companies for Injuries to Employees.

Chapter 8.—154. No railway company within the jurisdiction or legislative power or control of the Legislature of Alberta shall be relieved from liability for damages for personal injury to any workman, employee or servant of such company, nor shall any action or suit by such workman, employee or servant, or in the event of his death by his personal representatives, against the company be barred or defeated by reason of any notice, condition or declaration made or issued by the company, or made or issued by any insurance or provident society or association of railway employees formed, or purporting to be formed under such Act; or by reason of any rules or by-laws of the company, or rules or by-laws of the society or association; or by reason of the privity of interest or relation established between the company and the society or association, or the contribution or payment of moneys of the company to the funds of the society or association; or by reason of any benefit, compensation or indemnity which the workman, employee or servant, or his personal representatives, may become entitled to or obtain from such society or association or by membership therein; or by reason of any express or implied acknowledgment, acquittance or release obtained by the company or the society or association prior to the happening of the wrong or injury complained of, or the damage accruing, to, the purport or effect of relieving or releasing the company from liability for damages for personal injuries as aforesaid.

### Inspection of Railways.

Chapter 8.—157. Whenever any complaint is made to the Minister or the Minister receives information that any railway or any portion thereof is dangerous to the public using the same from want of renewal or repair or insufficient or erroneous construction or from any other cause or whenever circumstances arise which in his opinion render it expedient the Minister may direct an inspecting engineer to examine the railway or any portion thereof; and upon the report of the inspecting engineer may order any repairs, renewal, reconstruction, alteration or new work, materials or equipment to be made, done or furnished by the company upon, in addition to or substitution for any portion of the railway which may from such report appear to the Minister necessary or proper and may order that until such repairs, renewals, reconstruction, alteration and work, materials or equipment are made, done and furnished to his satisfaction, no such portion of the railway in respect of which such order is made shall be used or used otherwise than subject to such restrictions, conditions and terms as the Minister may in such order impose; and the Minister may by such order condemn and thereby forbid further use of any rolling stock which from such report it may consider unfit to repair or use further.

(2) If after notice of any such order made by the Minister the company shall use any rolling stock after the same has been so condemned by the Minister or shall disobey or fail to comply with any order of the Minister made under this section the company shall for each act of disobedience forfeit to His Majesty the sum of one thousand dollars; and any person wilfully and knowingly aiding or abetting any such violation shall be guilty of an offence and on conviction thereof shall be liable to a penalty of not less than twenty dollars nor more than two hundred dollars.

158. If in the opinion of any inspecting engineer it is dangerous for any trains to pass over any railway or any portion thereof until alterations, substitutions or repairs are made thereon or that any of the rolling stock should be run or used the said engineer may by notice forthwith either forbid the running of any train over such railway or portion of railway or require that the same be run only at such times under such conditions and with such precautions as he by notice specifies and he may forbid the running or using of any such rolling stock by serving upon the company owning, running or using such railway or any officer having the management or control of the running of trains on such railway a notice in writing to that effect with his reasons therefor in which he shall distinctly point out the defects or the nature of the danger to be apprehended; and for every act of non-compliance therewith such company shall forfeit to His Majesty the sum of one thousand dollars.

(2) The inspecting engineer shall forthwith report the same to the Minister, who may either confirm, modify or disallow the act or order of such engineer, and notice of such confirmation, modification or disallowance shall be duly given to the company.

159. No prosecution for any penalty under the last two preceding sections shall be instituted without the authority of the Minister first had and obtained.

### Operation of Trains—Safety Appliances.

Chapter 8.—160. Every company shall provide and cause to be used on all trains modern and efficient apparatus, appliances and means:

(a) To provide immediate communication between the conductor while in any car of any passenger train and the engine driver;

(b) To check at will the speed of the train and bring the same safely to a standstill as expeditiously as possible and except under circumstances of sudden danger or emergency, without causing undue discomfort to the passengers if any on the train, including a power drive wheel brake and appliances for operating the train brake system upon the locomotive and having a sufficient number of cars in every train so equipped with power or train brakes so that the engineer on the locomotive drawing such train can control its speed or bring it to a stop in the quickest and best manner possible without requiring brakemen to use the common hand brake for that purpose; and on all trains carrying passengers such system of brakes shall comply with the following requirements:

(i) The brakes shall be continuous and must be instantaneous in action and capable of being applied at will by the engine driver or any brakeman;

(ii) The brake must be self-applying in the event of any failure in the continuity of its action;

(c) To securely couple and connect the cars composing the train and to attach the engine to such train with couplers which couple automatically by impact and which can be uncoupled without the necessity of men going in between the ends of the cars.

(2) All box freight cars of the company built after the passing of this Act shall be equipped with the following attachments for the security of railway employees:

(a) Outside ladders on two of the diagonally opposite ends and sides of each car projecting below the frame of the car with one step or rung of the ladder below the frame, the ladders being placed close to the ends and sides to which they are attached;

(b) Hand grips placed anglewise over the ladders of each box car and so arranged as to assist persons in climbing on the roof by means of the ladder.

(3) Every company shall adopt and use upon all its rolling stock such height of draw bars as the Minister determines in accordance with any standard from time to time adopted by competent railway authorities.

(4) Every company which fails to comply with any of the provisions of this section shall forfeit to His Majesty a sum not exceeding two hundred dollars for every day during which such default continues and shall as well be liable to pay to all such persons as are injured by reason of the non-compliance with these provisions or to their representatives such damages as they are legally entitled to notwithstanding any agreement to the contrary with regard to any such person unless such agreement is conformable to the law of the province and is authorized by regulation to the Minister:

Provided, however, that no proceedings shall be instituted to enforce or recover any forfeiture to His Majesty under this section without the consent of the Minister first obtained.

161. The Minister may upon application order that any apparatus or appliance specified in such order shall when used upon the train in the manner and under circumstances in such order specified be deemed sufficient compliance with the provisions of the last preceding section but the minister shall not by such order allow any exception to or modification of the requirements of such section; but the Minister may by general regulation or in any particular case on good cause shown from time to time extend the period within which such appliance shall be used.

(2) The Minister shall endeavour to provide for uniformity in the construction of rolling stock to be used upon the railway and for a uniformity of rules for the operation and running of trains; and may make regulations designating the number of men to be employed upon trains or providing that coal shall be used on all locomotives instead of wood in any district and generally for the protection of property and the protection, safety, accommodation and comfort of the public and the employees of the company with respect to the running and operation of trains by the company.

162. Every locomotive engine shall be equipped and maintained with a bell of at least thirty pounds weight and with a steam whistle and shall while in use be equipped with a proper headlight which shall be lighted half an hour before dark and kept lighted during darkness.

163. The company shall provide and at all times maintain proper safety chains or other safety appliances between each of its engines and the accompanying tender sufficiently strong to withstand any usual strain which may be put upon the same by reason of the drawbar breaking; any company failing to comply with the provisions of this section shall in addition to any claims for damages to which it may be liable by reason of injury to any of its employees lawfully upon such engine or tender be liable to a penalty not exceeding \$500.

164. All engines of the company shall be equipped with dump ash pans to enable the engine men to empty ashes without the necessity of going under the engine; any company failing to comply with the provisions of this section shall in addition to any claims for damages by reason of injury to any engine man in the lawful pursuit of his duty be liable to a penalty not exceeding \$500.

165. Stock chutes, mail cranes and elevator spouts if maintained along the company's right of way shall not be maintained nearer than two feet from the side of the widest cab on any engine of the company; any company or person whose duty it is to observe the requirements of this section shall upon neglect or failure to do so in addition to any claims for damages by reason of injury to any of the company's employees lawfully in pursuit of his employment be liable to a penalty not exceeding \$500.

166. The company shall not operate on its railway any engine known as a "Mother Hubbard" engine by which term is meant an engine with two separate cabs one for the driver and the other for the fireman unless the company provides for the services of a third employee to be present in the driver's cab during all the times when the same is operated.

#### **Qualification of Railway Employees.**

Chapter 8.—167. The company shall not permit any person to have charge of any of its engines as a driver unless such person shall in addition to the qualifications required of the company's employees under the general rules of the company have had at least three years' experience as a locomotive fireman.

#### **Railway Employees to wear Badges.**

Chapter 8.—170. Every servant of the company employed in a passenger train or at a station for passengers shall wear upon his hat or cap a badge which shall indicate his office and he shall not without such badge be entitled to demand or receive from any passenger any fare or ticket or to exercise any of the powers of his office or meddle or interfere with any passenger or his baggage or property.

#### **Transportation of Explosives.**

[Chapter 8, sections 175 and 176, deals with the transportation of explosives on railways.]

#### **Negligence of Railway Employees.**

Chapter 8.—177. When any railway passes over any navigable water or canal by means of a draw or swing bridge which is subject to be opened for navigation every train shall before coming on or crossing over such bridge be brought to a full stop and shall not proceed until a proper signal has been given for that purpose and in default the company shall be liable to a penalty not exceeding five hundred dollars; any employee failing to comply with the rules of the company as to compliance with the provisions of this section shall be liable to the like penalty or to six months imprisonment or to both.

(2) Wherever there is adopted or in use on any railway at any such bridge an interlocking switch and signal system or other device which in the opinion of the Minister renders it safe to permit engines and trains to pass over such bridge without being brought to a stop the Minister may by order permit engines and trains to pass over such bridge without stopping under such regulations as to speed and other matters as the Minister deems proper.

178. When any train is approaching a highway crossing at rail level (except within the limits of cities or towns where the municipal authority may pass by-laws prohibiting the same, the engine whistle shall be sounded at least eighty rods before reaching such crossing and then the bell shall be rung continuously until the engine has crossed such highway and the company shall for each neglect to comply with the provisions of this section incur a penalty of twenty dollars and shall also be liable for all damage sustained by any person by reason of such neglect; and every employee of the company who neglects to comply with this section shall for each offence be subject to a like penalty.

(2) And for the better compliance with the provisions of this section the company shall erect and maintain on its right of way and at points eighty rods on each side of all highway crossings whistleposts, which shall be painted white and shall be not less than six feet high and on which shall be painted with black paint the letter "W" and such letter shall be not less than ten inches in length and the company shall also equip each of its engines with an automatic bell ringer.

183. Whenever any railway crosses any highway at rail level the company shall not nor shall its officers, agents or employees wilfully permit any engine, tender or car or any portion thereof to stand on any part of such highway for a longer period than five minutes at one time or in shunting to obstruct public traffic for a longer period than five minutes at any one time or in the opinion of the Minister unnecessarily interfere therewith.

(2) In every case of a violation of this section every such officer, agent or employee who has directly under or subject to his control, management or direction any engine, tender or car which or any portion of which is allowed to stand on such highway longer than the time specified in this section is liable on summary conviction to a penalty not exceeding fifty dollars and the company is also liable for each such violation to a like penalty:

Provided always that if such alleged violation is in the opinion of the court excusable the action for the penalty may be dismissed and costs shall be in the discretion of the court.

#### Safety Provisions—Packing.

Chapter 8.—184. In this section the expression "packing" means a packing of wood or metal or some equally substantial and solid material of not less than two inches in thickness and which where by this section any space is required to be filled in shall extend to within one and a half inches of the crown of the rails in use on any such railway, shall be neatly fitted so as to come against the web of such rails and shall be well and solidly fastened to the ties on which such rails are laid.

(2) The spaces behind and in front of every railway frog or crossing and between the fixed rails of every switch where such spaces are less than four inches in width shall be filled with packing up to the under side of the head of the rail.

(3) The spaces between any wing rail and any railway frog and between any guard rail and the track rail alongside of it shall be filled with packing at their splayed ends so that the whole splay shall be so filled where the width of the space between the rails is less than four inches; such packing not to reach higher than to the under side of the head of the rail:

Provided however that the Minister may allow the filling and packing mentioned in this section to be left out from the month of December to the month of April in each year, both months included, or between any such dates as the Minister by regulation or in any particular case determines

#### Accidents on Railways.

Chapter 8.—189. Every company shall as soon as possible and immediately after the head officers of the company have received information of the occurrence upon the railway belonging to such company of any accident attended with serious personal injury to any person using the railway or to any employee of the company or whereby any bridge, culvert, viaduct or tunnel on or of the railway has been broken or so damaged as to be impassable or unfit for immediate use give notice thereof with full particulars to the Minister and every company which wilfully and negligently omits to give such notice shall forfeit to His Majesty the sum of two hundred dollars for every day during which the omission to give same continues.

(2) The Minister shall by regulation declare the manner and form in which such information and notice shall be given and the class of accidents to which the next preceding section shall apply and may declare any such information so given to be privileged and the Minister may appoint such person or persons as he thinks fit to inquire into all matters and things which he deems likely to cause or prevent accidents and the causes of and the circumstances connected with any accident or casualty to life or property occurring on any railway and into all particulars relating thereto.

(3) The person or persons so appointed shall report fully in writing to the Minister his or their doings and opinions on the matters respecting which he or they are appointed to inquire and the Minister may act upon such report and may order the company to suspend or dismiss any employee of the company whom it may deem to have been negligent or wilful in respect of such accident.

#### Rules for Railway Employees.

Chapter 8.—190. The company may subject to the provisions and restrictions in this and in the special Act contained make by-laws, rules and regulations respecting:



(f) The travelling upon or the use or working of the railway;

(g) The employment and conduct of the officers and employees of the company;

200. All by-laws, rules and regulations whether made by the directors or the company shall be reduced to writing, be signed by the chairman or person presiding at the meeting at which they are adopted, have affixed thereto the common seal of the company and be kept in the office of the company.

201. All such by-laws, rules and regulations except such as are of a private or domestic nature and do not affect the public generally shall be submitted to the Lieutenant-Governor in Council for approval; the Lieutenant-Governor in Council having first obtained the report of the Minister thereon which report it shall be the duty of the Minister to make may sanction them or any of them or any part thereof and may from time to time rescind the sanction of any such by-law, rule or regulation or any part thereof; except when so sanctioned no such by-law, rule or regulation shall have any force or effect.

202. A printed copy of so much of any by-law, rule or regulation as affects any person other than the shareholders or the officers or employees of the company shall be openly affixed and kept affixed to a conspicuous part of every station belonging to the company so as to give public notice thereof to the persons interested therein or affected thereby.

(2) A printed copy of so much of any by-law, rule or regulation as relates to the conduct of or affects the officers or employees of the company shall be given to every officer and employee of the company thereby affected.

203. Such by-laws, rules and regulations when so approved shall be binding upon and observed by all persons and shall be sufficient to justify all persons acting thereunder.

204. If the violation or nonobservance of any by-law, rule or regulation is attended with danger or annoyance to the public or hindrance to the company in the lawful use of the railway the company may summarily interfere using reasonable force if necessary to prevent such violation or to enforce observance without prejudice to any penalty incurred in respect thereof.

205. A copy of any by-law, rule or regulation certified as correct by the president, secretary or other executive officer of the company and bearing the seal of the company shall be evidence thereof in any court.

#### **Negligence of Railway Employees.**

Chapter 8.—215. Every officer or servant of any company or any person employed by it who directs or knowingly permits any freight, merchandise or lumber car to be placed in the rear of a passenger car shall be guilty of an offence against this Act.

#### **Intoxication of Railway Employees.**

Chapter 8.—216. Every conductor, locomotive engineer, train despatcher, telegraph operator, station agent, switchman, signal man, bridge tender, or any other person who is intoxicated, or under the influence of liquor, while on duty, in charge of or in any employment having to do with the movement of trains upon any railway is guilty of an offence, and upon summary conviction, shall be punished by fine, not exceeding four hundred dollars, or imprisonment, not exceeding six months, or both, in the discretion of the court before which the conviction is had, and according as such court considers the offence proved to be more or less grave as causing injury to, or as exposing or likely to expose to injury, although no actual injury occurs to any person or property.

(2) Every person who sells, gives, or barter any spirituous or intoxicating liquor to or with any servant or employee of any company, while on duty, is liable on summary conviction to a penalty not exceeding fifty dollars, or to imprisonment with or without hard labour for a period not exceeding one month, or to both.

#### **Negligence of Railway Employees.**

Chapter 8.—217. Every officer or servant of and every person employed by the company who wilfully or negligently violates any of the provisions of this Act or any by-law, rule or regulation of the company lawfully made and enforced or any order or notice of the Lieutenant-Governor in Council or of the Minister of which a copy has been delivered to him or which has been posted up or open to his inspection in some place where his work or his duties or any of them are to be performed if such violation causes injury to any person or to any property or exposes any person or any property to the risk of injury or renders such risk greater than it would have been without such violation although no actual injury occurs shall be guilty of an offence against this Act and shall upon summary conviction in the discretion of the court before which the conviction is had and according to such court considers the offence proved to be more or less grave



or the injury or risk of injury to person or property to be more or less great be punished, by fine or imprisonment or both; but no such fine shall exceed four hundred dollars and no such imprisonment shall exceed the term of six months.

218. Such penalty shall belong to His Majesty for the public uses of the province.

219. The company may in all cases under the last three preceding sections pay the amount of the penalty and costs and recover the same from the offender or deduct it from his salary or pay.

#### Returns of Railway Accidents.

Chapter 8.—225. The company shall within ten days after the first days of January and July in each and every year make to the Minister under the oath of the president, secretary or superintendent of the company a true and particular return of all accidents and casualties (whether to persons or property) which have occurred on the railway of the company during the half year next preceding each of the said periods respectively setting forth:

(1) The causes and natures of such accidents and casualties;

(2) The points at which they occurred and whether by night or by day;

(3) The full extent thereof and all particulars of the same; and shall also at the same time return a true copy of the existing by-laws of the company and of their rules and regulations for the management of the company and of the railway.

226. The Minister may order and direct from time to time the form in which such returns shall be made.

227. All such returns relating to accidents made in pursuance of the provisions of this Act shall be privileged communications and shall not be evidence in any court whatsoever except to enforce the penalties for failure or neglect to furnish such returns as required by this Act.

#### Sunday Street Cars.

Chapter 8.—241. No company or municipal corporation operating a street railway, tramway or electric railway, shall operate the same or employ any person thereon on the first day of the week commonly called Sunday, except for the purpose of keeping the track clear of snow or ice, or for the purpose of doing other work of necessity. For every train or car run or operated in violation of this section, the company or corporation shall forfeit and pay the sum of \$400, to be recovered in any court having jurisdiction in civil cases, for the amount, by any person suing for the same under this section and for the purpose thereof. The action for the recovery of the said sum shall be brought before a court having jurisdiction as aforesaid in the place from which such train or car started, or through which it passed or at which it stopped in the course of such operation. All moneys recovered under the provisions of this section shall be paid to the provincial treasurer and shall form part of the general revenue of the province.

[The above section] shall cease to apply to any street railway, tramway, or electric railway operated within the municipal limits of any one or more of the cities of Calgary, Edmonton or Strathcona upon the ratepayers or burgesses of such city or cities respectively determining by a majority vote taken upon a plebiscite to determine if a majority of the said ratepayers or burgesses are desirous that the company or municipal corporation operating such railway shall be permitted so to operate their said street railway, tramway or electric railway on the first day of the week commonly called Sunday, that the said company or municipal corporation shall be permitted so to operate their said street railway, tramway or electric railway on Sunday and the council of any of the said cities may provide by by-law or resolution for the taking of a plebiscite under the provisions of this section, in such manner and form and at such time or times as shall be set out in the said by-law or resolution, and may by any such by-law or resolution, or by any other by-law or resolution, provide for the payment out of the funds of such city of the expenses necessary for the taking of such plebiscite. 1909, c. 4, s. 16.

#### STATUTES OF 1908.

#### Workmen's Compensation.

Chapter 12 with amendments.—1. This Act may be cited as The Workmen's Compensation Act, 1908.

## Application of Act and Definitions.

2. This Act shall apply only to employment by the undertakers as hereinafter defined, on or in or about a railway, factory, mine, quarry, or engineering work, and to employment by the undertakers as hereinafter defined on, in or about any building which is either being constructed or repaired by means of a scaffolding, or being demolished, or on which machinery driven by steam, water, or other mechanical power is being used for the purpose of the construction, repair, or demolition thereof. 1913, c. 9, s. 39 (1), part.

(2) In this Act, unless the context otherwise requires—

(i) "Railway" means a road owned by a private person or public company on which carriages run over metal rails, and shall include railways or tramways operated by electric or other power.

(ii) "Factory" means a building, workshop, or place where machinery driven by steam, water or other mechanical power is used, and includes mills where manufactures of wood, flour, meal, pulp or other substances are being carried on, also smelters where metals are sorted, extracted or operated on; every laundry worked by steam, water or other mechanical power, and also includes any dock, wharf, quay, warehouse, ship building yard, where goods or materials are being stored, handled, transported, or manufactured.

(iii) "Mine" means any kind of mine, and includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven for commencing or opening any mine or for searching for or proving minerals, and all the shafts, levels, planes, works, machinery, tramways, railways, and sidings, both below ground and above ground, in and adjacent to a mine, and any such shaft, level and inclined plane of and belonging to the mine.

(iv) "Engineering work" means any work of construction or alteration or repair of a railroad, harbour, dock, canal, watermain or sewer, and includes any other work for the construction, alteration or repair of which machinery, driven by steam, water or other mechanical power is used. 1913, c. 9, s. 39 (1), part.

(v) "Quarry" means an open cut from which rock is cut or taken for building purposes;

(vi) "Undertaker" in the case of a railway means the person or company owning or operating the railway; in the case of a factory, quarry, laundry, smelter, or warehouse means the owner, occupier, or operator thereof; in the case of a mine means the owner or operator thereof; and in the case of an engineering work, or other work specified within this Act, means the person undertaking the construction, alteration, repair or demolition.

(vii) "Employer" includes any body of persons corporate or unincorporate and the legal personal representative of a deceased employer, and, where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into contract of service or apprenticeship, the latter shall, for the purposes of this Act, be deemed to continue to be the employer of the workman whilst he is working for that other person.

(viii) "Workman" includes every person who is engaged in an employment to which this Act applies whether by way of manual labour or otherwise, but does not include any person employed otherwise than by way of manual labour whose remuneration exceeds twelve hundred dollars a year, or an outworker, but save as aforesaid, means any such person who has entered into or works under a contract of service or apprenticeship with an employer in any employment to which this Act extends, whether by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing.

Any reference to a workman who has been injured shall, where the workman is dead, include a reference to his legal personal representative or to his dependants or other person to whom or for whose benefit compensation is payable;

(ix) "Dependants" means such of the members of the workman's family as were wholly or in part dependent upon the earnings of the workman at the time of his death, or would but for the incapacity due to the accident have been so dependent, and where the workman, being the parent or grandparent of an illegitimate child, leaves such a child so dependent upon his earnings, or, being an illegitimate child, leaves a parent or grandparent so dependent upon his earnings, shall include such an illegitimate child and parent or grandparent respectively;

(x) "Member of a family" means wife or husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister, adopted child, foster parent.

(xi) "Outworker" means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale, in his own home or on other premises not under the control or management of the person who gave out the materials or articles.

The exercise and performance of the powers and duties of a local or municipal authority or corporation shall, for the purposes of this Act, be treated as the trade or business of the authority or corporation.

### Liability of Employers to Workmen for Injuries.

3. If in any employment to which this Act applies personal injury by accident arising out of and in the course of the employment is caused to a workman, his employer shall, subject as hereinafter mentioned, be liable to pay compensation in accordance with the first schedule to this Act.

(2) Provided that—

(a) The employer shall not be liable under this Act in respect of any injury which does not disable the workman from earning full wages at the work at which he was employed. 1913, c. 9, s. 39 (2).

(b) When the injury was caused by the personal negligence or wilful act of the employer or of some person for whose act or default the employer is responsible nothing in this Act shall affect any civil liability of the employer, but in that case the workman may, at his option, either claim compensation under this Act or take proceedings independently of this Act; but the employer shall not be liable to pay compensation for injury to a workman by accident arising out of and in the course of the employment both independently of and also under this Act, and shall not be liable to any proceedings independently of this Act, except in case of such personal negligence or wilful act as aforesaid;

(c) If it is proved that the injury to a workman is attributable to the serious and wilful misconduct of that workman, any compensation claimed in respect of that injury shall, unless the injury results in death or permanent disablement, be disallowed.

(3) If any question arises in any proceedings under this Act as to the liability to pay compensation under this Act, including any question as to whether the employment is one to which this Act applies, or as to whether the person injured is a workman to whom this Act applies or as to the amount or duration of compensation under this Act, the question, if not settled by agreement, shall, subject to the provisions of the first schedule to this Act, be settled by arbitration, in accordance with the second schedule to this Act.

(4) If, within the time hereinafter in this Act limited for taking proceedings, an action is brought to recover damages independently of this Act for injury caused by any accident, and it is determined in such action that the injury is one for which the employer is not liable in such action, but that he would have been liable to pay compensation under the provisions of this Act, the action shall be dismissed, but the court in which the action is tried shall, if the plaintiff so choose, proceed to assess such compensation, but may deduct from such compensation all or part of the costs which, in its judgment, have been caused by the plaintiff bringing the action instead of proceeding under this Act. In any proceeding under this subsection when the court assesses the compensation it shall give a certificate of the compensation it has awarded and the directions it has given as to the deduction for costs, and such certificate shall have the force and effect of an award under this Act.

### Time for taking Proceedings.

4. Proceedings for the recovery under this Act of compensation for an injury shall not be maintainable unless notice in writing of the accident has been given as soon as practicable after the happening thereof, and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been made within six months from the occurrence of the accident causing the injury, or, in case of death, within six months from the time of death:

Provided always that—

(a) The want of or any defect or inaccuracy in such notice shall not be a bar to the maintenance of such proceedings if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defence by the want, defect or inaccuracy, or that such want, defect, or inaccuracy was occasioned by mistake, absence from the province, or other reasonable cause; and

(b) The failure to make a claim within the period above specified shall not be a bar to the maintenance of such proceedings if it is found that the failure was occasioned by mistake, absence from the province, or other reasonable cause.

(2) Notice in respect of an injury under this Act shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which the accident happened, and shall be served on the employer, or, if there is more than one employer, upon one of such employers.

(3) The notice may be served by delivering the same at or sending it by post in a registered letter addressed to the residence or place of business of the person on whom it is to be served.

(4) Where the employer is a body of persons, corporate or unincorporate, the notice may also be served by delivering the same at, or by sending it by post in a registered letter addressed to, the employer at the office, or, if there be more than one office, any one of the offices of such body.

#### Contracting out.

5. If the Attorney General, after taking steps to ascertain the views of the employer and workmen, certifies that any scheme of compensation, benefit, or insurance for the workmen of an employer in any employment, whether or not such scheme includes other employers and their workmen, provides scales of compensation not less favourable to the workmen, and their dependents than the corresponding scales contained in this Act, and that, where the scheme provides for contributions by the workmen, the scheme confers benefits at least equivalent to those contributions in addition to the benefits to which the workmen would have been entitled under this Act, and that a majority (to be ascertained by ballot) of the workmen to whom the scheme is applicable are in favour of such scheme, the employer may, whilst the certificate is in force, contract with any of his workmen that the provisions of the scheme shall be substituted for the provisions of this Act, and thereupon the employer shall be liable only in accordance with the scheme, but, save as aforesaid, this Act shall apply notwithstanding any contract to the contrary made after the commencement of this Act.

(2) The Attorney General may give a certificate to expire at the end of a limited period of not less than five years, and may from time to time renew with or without modifications such a certificate to expire at the end of the period for which it is renewed.

(3) No scheme shall be so certified which contains no obligation upon the workmen to join the scheme as a condition of their hiring, or which does not contain provisions enabling a workman to withdraw from the scheme.

(4) If complaint is made to the Attorney General by or on behalf of the workmen of any employer that the benefits conferred by any scheme no longer conform to the conditions stated in subsection (1) of this section, or that the provisions of such scheme are being violated, or that the scheme is not being fairly administered, or that satisfactory reasons exist for revoking the certificate, the Attorney General shall examine into the complaint, and, if satisfied that good cause exists for such complaint, shall, unless the cause of complaint is removed, revoke the certificate.

(5) When a certificate is revoked or expires, any moneys or securities held for the purpose of the scheme shall, after due provision has been made to discharge the liabilities already accrued, be distributed as may be arranged between the employer and workmen, or as may be determined by the Attorney General in the event of a difference of opinion.

(6) Whenever a scheme has been certified as aforesaid, it shall be the duty of the employer to answer all such inquiries and to furnish all such accounts in regard to the scheme as may be made or required by the Attorney General.

(7) The Attorney General may make regulations for the purpose of carrying this section into effect.

#### Subcontracting.

6. Where any person (in this section referred to as the principal) in the course of or for the purpose of his trade or business, contracts with any other person (in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work undertaken by the principal which is in the way of the principal's trade or business, the principal shall be liable to pay to any workman employed in the execution of the work any compensation under this Act which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal, then, in the application of this Act, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section he shall be entitled to be indemnified by any person who would have been liable to pay the compensation to the workman independently of this section, and all questions as to the right to and amount of any such indemnity shall in default of agreement be settled by arbitration under this Act.

(3) Nothing in this section shall be construed as preventing a workman recovering compensation under this Act from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, or in, or about premises in which the principal has undertaken to execute the work or which are otherwise under his control or management.

### Provision as to Cases of Insolvency of Employer.

7. Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then, in the event of the employer making an assignment for the benefit of or a composition or arrangement with his creditors or if the employer is a company in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so however that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employers to the workman the workman may prove for the balance in the assignment or liquidation proceedings.

(3) There shall be included among the debts which under The Assignments Act, and The Companies Winding-Up Ordinance, are in the distribution of the property in the case of an assignment, and in the distribution of the assets of a company being wound up, under the said Act and Ordinance respectively, to be paid in priority to all other debts, the amount, not exceeding in any individual case five hundred dollars, due in respect of any compensation the liability whereof accrued before the date of the assignment or the date of the commencement of the winding up, and the said Acts shall have effect accordingly. Where the compensation is a weekly payment, the amount due in respect thereof shall, for the purposes of this provision, be taken to be the amount of the lump sum for which the weekly payment could, if redeemable, be redeemed if the employer made an application for that purpose under the first schedule to this Act.

(4) The provisions of this section with respect to preferences and priorities shall not apply where the assignor or the company being wound up has entered into such contract with insurers as aforesaid.

(5) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

### Remedies Both Against Employer and Stranger.

8. Where the injury for which compensation is payable under this Act was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof—

(1) The workman may take proceedings both against that person to recover damages and against any person liable to pay compensation under this Act, for such compensation, but shall not be entitled to recover both damages and compensation; and

(2) If the workman has recovered compensation under this Act, the person by whom the compensation was paid, and any person who has been called on to pay an indemnity under the section of this Act relating to subcontracting, shall be entitled to be indemnified by the person so liable to pay damages as aforesaid, and all questions as to the right to and amount of any such indemnity shall, in default of agreement, be settled by action, or, by consent of the parties, by arbitration under this Act.

### Provisions as to Existing Contracts.

9. Any contract existing at the commencement of this Act, whereby a workman relinquishes any right to compensation from the employer for personal injury arising out of and in the course of his employment shall not, for the purposes of this Act, be deemed to continue after the time at which the workman's contract of service would determine if notice of the determination thereof were given at the commencement of this Act.

10. Notwithstanding anything hereinbefore contained this Act shall not apply to the employment of agriculture, nor to any work performed or machinery used on or about a farm or homestead for farm purposes or for the purposes of improving such farm or homestead and for greater certainty but so as not to restrict in any degree the generality of the foregoing words of this section this Act shall not apply to any of the following employments on a farm:

(a) Threshing, cleaning, crushing, grinding or otherwise treating grain or sawing wood, posts, lumber or other wooden material, or otherwise treating the same, or the pressing of hay, by any kind of machinery or motive power, and whether such machinery or motive power be portable or stationary, and whether the same be owned and operated by the farmer or farmers for whose purpose the same is being used, or by any other farmer or other person for gain, profit, or reward.

(b) The construction, repair or demolition of any farm building, windmill, derrick or other structure.

(2) The word "factory" as defined in this Act shall not be held to include any building, workshop, place or mill on a farm used for the purposes of such farm.

(3) The words "mine" or "quarry" as defined in this Act shall not be held to include any mine or quarry on a farm used for the purposes only of such farm.

(4) The words "engineering work" as defined in this Act shall not be held to include any ditch, drain, well, or other excavation on a farm being constructed or repaired for the purposes of such farm, or any adjoining farm or farms.

Commencement.

11. This Act shall come into operation on the first day of January, nineteen hundred and nine, but shall not apply in any case where the accident happened before the commencement of this Act.

SCHEDULES.

Unless the context otherwise required,—

(a) The words "court" or "District Court" when used in these schedules shall mean the District Court of the district in which all the parties concerned reside, or, if they reside in different districts, then of the district in which the accident out of which the matter arose occurred, or any judge of such District Court;

(b) "Rules of Court" shall mean rules of court made and promulgated as provided for in The District Courts Act.

FIRST SCHEDULE.

Scale and Conditions of Compensation.

(1) The amount of compensation under this Act shall be:

(a) Where death results from the injury,—

(i) If the workman leaves any dependants wholly dependent upon his earnings, a sum equal to his earnings in the employment of the same employer during the three years next preceding the injury, or the sum of one thousand dollars, whichever of those sums is the larger, but not exceeding in any case eighteen hundred dollars, provided that the amount of any weekly payments made under this Act, and any lump sum paid in redemption thereof, shall be deducted from such sum, and, if the period of the workman's employment by the said employer has been less than the said three years, then the amount of his earnings during the said three years shall be deemed to be one hundred and fifty-six times his average weekly earnings during the period of his actual employment under the said employer.

(ii) If the workman does not leave any such dependants, but leaves any dependants in part dependent upon his earnings, such sum, not exceeding in any case the amount payable under the foregoing provisions, as may be agreed upon, or in default of agreement, may be determined, on arbitration under this Act, to be reasonable and proportionate to the injury to the said dependants; and

(iii) If he leaves no dependants, the reasonable expenses of his medical attendance and burial, not exceeding two hundred dollars.

(b) Where total or partial incapacity for work results from the injury, a weekly payment during the incapacity not exceeding fifty per cent of his average weekly earnings during the previous twelve months, if he has been so long employed, but if not then for any less period during which he has been in the employment of the same employer, such weekly payment not to exceed ten dollars. 1913, (2nd Sess.), c. 2, s. 18 (1).

Provided that as respects the weekly payments during total incapacity of a workman who is under twenty-one years of age at the date of the injury, and whose average weekly earnings are less than ten dollars, one hundred per cent shall be substituted for fifty per cent of his average weekly earnings, but the weekly payment shall in no case exceed seven dollars and fifty cents.

(2) For the purposes of the provisions of this schedule relating to "earnings" and "average weekly earnings" of a workman, the following rules shall be observed;

(a) Average weekly earnings shall be computed in such manner as is best calculated to give the rate per week at which the workman was being remunerated. Provided that where by reason of the shortness of the time during which the workman has been in the employment of his employer, or the casual nature of the employment, or the terms of the employment, it is impracticable at the date of the accident to compute the rate of remuneration, regard may be had to the average weekly amount which, during the twelve months previous to the accident, was being earned by a person in the same grade employed at the same work by the same employer, or, if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district;

(b) Where the workman has entered into concurrent contracts of service with two or more employers under which he worked at one time for one such employer and at another time for another such employer, his average weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident;

(c) Employment by the same employer shall be taken to mean employment by the same employer in the grade in which the workman was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause;

(d) Where the employer has been accustomed to pay to the workman a sum to cover any special expenses entailed on him by the nature of his employment, the sum so paid shall not be reckoned as part of the earnings.

(3) In fixing the amount of weekly payment regard shall be had to any payment, allowance or benefit which the workman may receive from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average weekly amount which he is earning or is able to earn in some suitable employment or business after the accident, but shall bear such relation to the amount of that difference as under the circumstances of the case may appear proper.

(4) Where a workman has given notice of an accident he shall if so required by the employer, submit himself for examination by a duly qualified medical practitioner provided and paid by the employer, and, if he refuses to submit himself to such examination, or in any way obstructs the same, his right to compensation, and to take or prosecute any proceeding under this Act in relation to compensation, shall be suspended until such examination take place.

(5) The payment in the case of death shall, unless otherwise ordered, as hereinafter provided, be paid into court, and the provisions of this schedule, be invested, applied, or otherwise dealt with by the court, in such manner as the court in its discretion thinks fit for the benefit of the persons entitled thereto under this Act, and the receipt of the clerk of the court shall be a sufficient discharge in respect of the amount paid in.

Provided that, if so agreed, the payment in case of death shall, if the workman leaves no dependants, be made to his legal personal representative, or, if he has no such representative, to the person to whom the expenses of medical attendance and burial are due.

(6) Rules of court may provide for the transfer of money paid into court under this Act from one court to another court in the province.

(7) Where a weekly payment is payable under this Act to a person under any legal disability the court may, on application being made in accordance with rules of court, order that the weekly payment be paid during the disability into court, and the provisions of this schedule with respect to sums required by this schedule to be paid into court shall apply to sums paid into court in pursuance of any such order.

(8) Any question as to who is dependant shall, in default of agreement, be settled by arbitration under this Act, or, if not so settled before the payment into court under this schedule, shall be settled by the court, and the amount payable to each dependant shall be settled by arbitration under this Act, or, if not so settled before payment into court under this schedule, by the court. Where there are both total and partial dependants nothing in this schedule shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependants.

(9) Where, on application being made in accordance with rules of court, it appears to the court that, on account of neglect of children on the part of a widow, or on account of the variation of the circumstances of the various dependants, or for any other sufficient cause, an order of the court or an award as to the apportionment amongst the several dependants of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the court may make such order for the variation of the former order or the award, as in the circumstances of the case the court may think just.

(10) Any sum which under this schedule is ordered to be invested may be invested in whole or in part in securities or investments approved by the court by the clerk of the court in his name as clerk.

(11) Any workman receiving weekly payments under this Act shall, if so required by the employer, from time to time submit himself for examination by a duly qualified medical practitioner, provided and paid by the employer. If the workman refuses to submit himself to such examination, or in any way obstructs the same, his right to such weekly payments shall be suspended until such examination has taken place.

(12) A workman shall not be required to submit himself for examination by a medical practitioner under paragraph (4) or paragraph (11) of this schedule otherwise than in accordance with regulations made by the Attorney General or at more frequent intervals than may be prescribed by those regulations.



Where a workman has so submitted himself for examination by a medical practitioner, or has been examined by a medical practitioner selected by himself, and the employer or the workman, as the case may be, has within six days after such examination furnished the other with a copy of the report of that practitioner as to the workman's condition, then, in the event of no agreement being come to between the employer and the workman as to the workman's condition or fitness for employment, the court on application may, on payment by the applicants of such fee not exceeding ten dollars as may be prescribed, refer the matter to a medical referee appointed by the Lieutenant-Governor in Council.

The medical referee to whom the matter is so referred shall, in accordance with regulations made by the Attorney General, give a certificate as to the condition of the workman, and his fitness for employment, specifying where necessary, the kind of employment for which he is fit, and that certificate shall be conclusive evidence as to the matter so certified. Where no agreement can be come to between the employer and the workman as to whether or to what extent the incapacity of the workman is due to the accident, the provisions of this paragraph shall, subject to any regulations made by the Attorney General, apply as if the question were a question as to the condition of the workman.

If a workman, on being required so to do, refuses to submit himself for examination by a medical referee to whom the matter has been so referred as aforesaid or in any way obstructs the same, his right to compensation and to take or prosecute any proceedings under this Act in relation to compensation, or, in the case of a workman in receipt of a weekly payment, his right to that weekly payment, shall be suspended until such examination has taken place.

Rules of court may be made for prescribing the manner in which documents are to be furnished or served and applications made under this paragraph and the forms to be used for those purposes and as to the fee to be paid under this paragraph.

(13) Any weekly payment may be reviewed at the request either of the employer or of the workman, and on such review may be ended, diminished, or increased, subject to the maximum above provided, and the amount of payment shall in default of agreement, be settled by arbitration under this Act.

Provided that where the workman was at the date of the accident under twenty-one years of age and the review takes place more than twelve months after the accident, the amount of the weekly payment may be increased to any amount not exceeding fifty per cent of the weekly sum which the workman would probably have been earning at the date of the review if he had remained uninjured, but not in any case exceeding ten dollars.

(14) Where any weekly payment has been continued for not less than six months the liability therefor may, on application by or on behalf of the employer, be redeemed by the payment of a lump sum of such an amount as the court shall deem just, and such lump sum may be ordered by the court to be invested or otherwise applied for the benefit of the person entitled thereto:

Provided that nothing in this paragraph shall be construed as preventing agreements being made for the redemption of a weekly payment by a lump sum.

(15) If a workman receiving a weekly payment ceases to reside in a province, he shall thereupon cease to be entitled to receive any weekly payment unless a medical referee appointed hereunder certifies that the incapacity resulting from the injury is likely to be of a permanent nature. If the medical referee so certifies the workman shall be entitled to receive quarterly the amount of the weekly payments accruing due during the preceding quarter so long as he proves, in such manner and at such intervals as may be prescribed by rules of court, his identity and the continuance of the incapacity in respect of which the weekly payment is payable.

(16) A weekly payment, or a sum paid by way of redemption therefor, shall not be capable of being assigned, charged or attached, and shall not pass to any other person by operation of law, nor shall any claim be set off against the same.

(17) Where under this schedule a right to compensation is suspended no compensation shall be payable in respect of the period of suspension.

## SECOND SCHEDULE.

### Arbitration, etc.

(1) For the purpose of settling any matter which under this Act is settled by arbitration, if any committee, representative of an employer and his workmen, exists with power to settle matters under this Act, in the case of the employer and workmen, the matter shall, unless either party objects by notice in writing sent to the other party before the committee meet to consider the matter, be settled by arbitration of such committee, or be referred by them in their discretion to arbitration as hereinafter provided.

(2) If either party so objects, or there is no such committee, or the committee so refers the matter or fails to settle the matter, within three months from the date of the claim, the matter shall be settled by a single arbitrator agreed on by the parties, or in the absence of agreement by the court, according to the procedure prescribed by rules of court.

(3) The Arbitration Ordinance or any Act of the Legislature of Alberta substituted therefor shall not apply to any arbitration under this Act; but a committee or an arbitrator may, if they or he thinks fit, submit any question of law for the decision of the court, and the decision of the court on any question of law, either on such submission, or in any case where he himself settles the matter under this Act, or where he gives any decision or makes any order under this Act, shall be final, unless within the time and in accordance with the conditions prescribed by rules of the Supreme Court either party appeals to the Supreme Court *en banc*; and the court shall, for the purpose of proceedings under this Act, have the same powers of procuring the attendance of witnesses and the production of documents as if the proceedings were an action in the court.

(4) The court may summon a medical referee to sit with the court as an assessor.

(5) Rules of court may make provision for the appearance in any arbitration under this Act of any party by any other person.

(6) The costs of and incidental to the arbitration and proceedings connected therewith shall be in the discretion of the committee, arbitrator or court, subject as respects such court to rules of court. The costs whether before a committee or an arbitrator or in the court, shall not exceed the limit prescribed by rules of court, and shall be taxed in the manner prescribed by those rules and such taxation may be reviewed by the court.

(7) In the case of the death, or refusal or inability to act, of an arbitrator, the court may, on the application of any party, appoint a new arbitrator.

(8) Where the amount of compensation under this Act has been ascertained, or any weekly payment varied, or any other matter decided under this Act, whether by a committee or by an arbitrator or by agreement, a memorandum thereof shall be sent, in manner prescribed by rules of court, by the committee or arbitrator, or by any party interested, to the clerk of the court who shall, subject to such rules, on being satisfied as to its genuineness, record such memorandum in a special register without fee, and thereupon the memorandum shall for all purposes be enforceable as a judgment of the court:

Provided that—

(a) No such memorandum shall be recorded before seven days after the despatch by the clerk of notice to the parties interested; and

(b) Where a workman seeks to record a memorandum of agreement between his employer and himself for the payment of compensation under this Act and the employer, in accordance with rules of court, objects to the recording of such memorandum and proves that the workman has in fact returned to work, and is earning the same wages as he did before the accident, then the memorandum shall only be recorded, if at all, in such terms as the court under the circumstances may think just; and

(c) The court may at any time rectify the register; and

(d) Where it appears to the clerk of the court, on any information which he considers sufficient, that an agreement as to the redemption of a weekly payment by a lump sum, or an agreement as to the amount of compensation payable to a person under any legal disability, or to dependants, ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence, or other improper means, he may refuse to record the memorandum of the agreement sent to him for registration, and refer the matter to the court and the court shall, in accordance with rules of court, make such order (including an order as to any sum already paid under the agreement) as under the circumstances may seem just; and

(e) The court may, within six months after a memorandum of an agreement as to the redemption of a weekly payment by a lump sum or of an agreement as to the amount of compensation payable to a person under any legal disability, or to dependants, has been recorded in the register, order that the record be removed from the register on proof to the satisfaction of the court that the agreement was obtained by fraud, or undue influence or other improper means, and may make such order (including an order as to any sum already paid under the agreement) as under the circumstances may seem just.

(9) An agreement as to the redemption of a weekly payment by a lump sum if not registered in accordance with this Act shall not, nor shall the payment of the sum payable under the agreement, exempt the person by whom the weekly payment is payable from liability to continue to make that weekly payment, and an agreement as to the amount of compensation to be paid to a person under a legal disability or

to dependants, if not so registered, shall not, nor shall the payment of the sum payable under the agreement, exempt the person by whom the compensation is payable from liability to pay compensation, unless, in either case, he proves that the failure to register was not due to any neglect or default on his part.

(10) The duty of District Courts under this Act shall, subject to rules of court, be part of the duties of such courts, and the officers of such courts shall act accordingly, and rules of court may be made both for any purpose for which this Act authorizes rules of court to be made, and also generally for carrying into effect this Act so far as it affects such courts, and proceedings therein.

(11) No court fee, except such as may be prescribed under paragraph (12) of the first schedule to this Act, shall be payable by any party in respect of any proceedings by or against a workman under this Act in the court prior to the award.

(12) Any sum awarded as compensation shall, unless paid into court under this Act, be paid on the receipt of the person to whom it is payable under any agreement or award, and the solicitor or agent of a person claiming compensation under this Act shall not be entitled to recover from him any costs in respect of any proceedings in an arbitration under this Act, or to claim a lien in respect of such costs on, or deduct such costs from, the sum awarded or agreed as compensation, except such sum as may be awarded by the committee, the arbitrator or the court, on an application made either by the person claiming compensation, or by his solicitor or agent, to determine the amount of costs to be paid to the solicitor or agent, such sum to be awarded subject to taxation and to the scale of costs prescribed by rules of court.

(13) Any committee, arbitrator or court may, subject to regulations made by the Attorney General, submit to a medical referee for report any matter which seems material to any question arising in the arbitration.

(14) The Attorney General may, by order, either unconditionally or subject to such conditions or modifications as he may think fit, confer on any committee representative of an employer and his workmen, as respects any matter in which the committee act as arbitrators, or which is settled by agreement submitted to and approved by the committee, all or any of the powers conferred by this Act exclusively on courts or judges thereof, and may by the order provide how and to whom the compensation money is to be paid in cases where, but for the order, the money would be required to be paid into court, and the order may exclude from the operation of provisoes (d) and (e) of paragraph (8) of this schedule agreements submitted to and approved by the committee, and may contain such incidental, consequential or supplemental provisions as may appear to the Attorney General to be necessary or proper for the purposes of the order.

### Prison Labour.

Chapter 15 with amendment.—7. The Lieutenant-Governor in Council may direct or authorize the employment beyond the limits of the common goal upon any work or duty, the nature of which is specified in the order-in-council, or any person who is sentenced to be imprisoned with hard labour in such goal under the authority of any statute of Alberta, or for the breach of a bylaw of any city, town, village or municipality. 1913, c. 9, s. 19, part.

## STATUTES OF 1909.

### Protection of Employees as Voters—Time to Vote.

Chapter 3.—185. Every voter shall on the day of polling for the purpose of voting be entitled to absent himself from any service or employment in which he is then engaged or employed from the hour of noon until the hour of three o'clock next thereafter and a voter shall not because of his so absenting himself be liable to any penalty or suffer or incur any reduction from the wages or compensation to which but for his absence he would have been entitled:

Provided that this section shall not apply where a voter is by his employer permitted or allowed at any other period during the hours of polling reasonable and sufficient time and opportunity to vote.

260. Every person who directly or indirectly, himself or by any other person on his behalf uses or threatens to use force, violence or restraint or inflicts or threatens to inflict injury, damage, harm or loss or in any manner practices intimidation upon or against a voter in order to induce or compel him to vote or refrain from voting or on account of his having voted or refrained from voting, or who by abduction, duress or false or fraudulent pretence, device or contrivance impedes, prevents, or otherwise interferes with the free exercise of the franchise of a voter or thereby compels, induces

or prevails upon a voter to vote or refrain from voting shall be guilty of a corrupt practice and shall incur a penalty of \$200 or to imprisonment for a term not exceeding one year.

(2) It shall be a false pretence within the meaning of this section to represent to a voter directly or indirectly that the ballot to be used or the mode of voting at an election is not secret.

#### Employment of Children in Street Trades.

Chapter 12 with amendment.—16a. Municipal councils in cities, towns and incorporated villages may pass by-laws regulating and controlling and licensing children engaged as—

- (a) Express or dispatch messengers;
- (b) Vendors of newspapers and small wares;
- (c) Bootblacks.

(2) No license fee imposed hereunder shall exceed the sum of 50 cents per annum and no child engaged in two or more of the said occupations shall be compelled to take out more than one license, nor pay more than one license fee.

(3) No such license shall be granted to any female child, nor to any male child under the age of twelve years, nor to any male child of the age of twelve years but under the age of 14 years, unless such child shall present written authority from his parent or guardian authorizing him to make application for a license for the purpose of engaging in any of the above named occupations.

(4) No licensee under this section shall be permitted to engage in any occupation for which he is licensed within the limits of the municipality after the hour of eight o'clock in the evening, in the months of December, January, and February, or after the hour of nine o'clock in the evening throughout the rest of the year, or during school hours. 1911-12, c. 4, s. 34 (2).

#### STATUTES OF 1910, SECOND SESSION.

##### Wages as Preferred Claims—In Executions.

Chapter 4.—5. (13) All persons who are at the time of the seizure by the sheriff, or who within one month prior thereto have been in the employment of the execution debtor, and who shall become entitled to share in the distribution of money levied out of the property of a debtor, shall be entitled to be paid out of such money, the wages or salary due to them by the execution debtor, not exceeding three months' wages or salary, in priority to the claims of the other creditors of the execution debtor, and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims.

##### Employment of Children—School Attendance.

Chapter 8 with amendments.—3. Every child who has attained the age of seven years and who has not yet attained the full age of fifteen years shall attend school for the full term during which the school of the district in which he resides is open each year, unless excused for the reasons hereinafter mentioned. 1915, c. 10, s. 3 (1).

4. A person who has received into his house another person's child under the age of fifteen, who is a resident with him or in his care or legal custody, shall be subject to the same duty with respect to the instruction of such child during such residence as a parent and shall be liable to be proceeded against as in the case of a parent, if he fails to cause such child to be instructed as required by this Act; but the duty of the parent under this Act shall not be thereby affected or diminished. 1915, c. 10, s. 3 (2).

5. A parent, guardian or other person shall not be liable to any penalty imposed by this Act in respect of a child if—

(a) In the opinion of a school inspector, as certified in writing, bearing date within one year prior to the date of any complaint laid under this Act, the child is under efficient instruction at home or elsewhere;

(b) The child is unable to attend school by reason of sickness or other unavoidable cause;

(c) There is no public or separate school which the child has the right to attend within two and one-half miles, measured from the nearest point of the quarter section or lesser parcel of land upon which the child resides by the nearest highway from such child's residence, if he is under ten years of age, or within three and one-half miles if he is over that age; or in the case of a consolidated school district where the regular route travelled by any conveyance provided by such consolidated school district is more than one mile from such child's residence;

(d) There is not sufficient accommodation in the school which the child has the right to attend; or

(e) The child has passed the public school leaving examination prescribed by the Department of Education or has completed a course which gives him an equivalent standing.

(f) The child has attained the full age of fourteen years and is regularly employed during school hours in some useful occupation. 1913, second session, c. 16, s. 3, part. 1915, c. 10, s. 3 (3). 1916, c. 9, s. 3, part.

6. No child under the age of fourteen years who has not a valid excuse under this Act shall be employed by any person during school hours while the public school of the district in which the child resides is in session, and any person who employs a child in contravention of this section shall incur a penalty not exceeding twenty dollars for each offence.

(2) Where in the opinion of a justice of the peace, police magistrate or principal of the school attended by any child the services of such child are required in husbandry or in urgent and necessary household duties, or for the necessary maintenance of such child or of some person dependent upon him, such justice, police magistrate or principal may by certificate setting forth the reasons therefor relieve such child from attending school for any period not exceeding six weeks during each public school term.

### Inspection and Regulation of Factories—Sanitation.

[Chapter 17, The Public Health Act, section 7, enumerates in a number of clauses the subjects upon which the provincial board of health with the approval of the Lieutenant-Governor in Council may make regulations. Among these are the following:—]

3. The cleansing, purifying, ventilating, plumbing and disinfecting of houses, factories . . . buildings and places of assembly, . . . by the owners and occupiers or persons having the care and ordering thereof;

4. The inspection of . . . houses, factories . . . buildings and places of assembly,

7. The inspection, licensing, method of construction, furnishing, equipping and maintaining, cleansing and disinfecting of all slaughter houses and other places in which animals are killed and their meat prepared for sale or to be used for food, and of all canneries, fish houses, smokehouses and warehouses in which fish are cured, packed or prepared for sale or to be used as food and of all starch factories, dyeworks or factories in which blood, offal or skins or paraffine, tallow, soap or fertilizers or gas are worked up.

### STATUTES OF 1911-12.

#### Early Closing of Shops.

Chapter 2.—163. The council of every town may pass by-laws not inconsistent with any Statute of Canada or Act of the province or with any rules or regulations having the force of law made pursuant to any such Statute or Act for—

77. Subject to the provisions of The Early Closing Act the enforcement of closing at any specified hour of all retail shops as the same are defined by the said Act.

#### Examination and Licensing of Chauffeurs.

Chapter 6.—15. Any application for a license to operate motor vehicles as a chauffeur shall be made to the Provincial Secretary upon blank forms to be prepared under his authority. Every such application shall be accompanied by a fee of three dollars.

(2) Before such application shall be granted the applicant shall pass such examination as to his qualifications as the Provincial Secretary may require; and no license shall be issued to any such applicant until the said Provincial Secretary is satisfied that he is a fit and proper person to receive the same.

(3) For the purpose of conducting the examinations aforesaid the Provincial Secretary shall appoint examiners and cause examinations to be held at convenient points throughout the province, and as often as may be necessary.

(4) Upon the Provincial Secretary being satisfied as to the qualifications of the applicant he shall register his name as a chauffeur licensed to operate motor vehicles in this province, and deliver to him a certificate of such registration, and assign and furnish to him a suitable metal badge which shall have stamped thereon the words "Alberta Licensed Chauffeur," and the number assigned to the applicant, which said badge shall thereafter be worn by him in a conspicuous place on the front of his outer garment at all times while he is operating a motor vehicle upon any public highway.

(5) All licenses issued under the provisions of this section shall remain in force, unless suspended or revoked as hereinafter provided, for one year from the first day of January preceding the date of issue.

(6) No chauffeur's license shall be issued to any person under the age of eighteen years.

16. No chauffeur having registered as provided in the foregoing section shall operate a motor vehicle without displaying his badge in the manner prescribed by this Act, nor voluntarily permit any person to use his badge or certificate, nor shall any person while operating a motor vehicle use any badge or certificate belonging to any other person nor a fictitious badge or certificate.

50. No chauffeur shall operate a motor vehicle without having been registered under this Act or while his license is suspended or revoked.

### **Inspection of Steam Boilers—Examination and Licensing of Stationary Engineers.**

Chapter 9 with amendments.—1. This Act may be cited as The Boilers Act.

#### **Interpretation.**

2. In this Act, unless the context otherwise require, the expression—

(1) "Boiler" means and includes any boiler carrying steam pressure, the engine or engines connected therewith, the pipes and connections and every part thereof or connected therewith and all apparatus attached to or used in connection therewith, for generation or storage of steam or air; but does not include boilers used for heating water for domestic purposes, nor for generating steam solely for the purpose of heating dwellings. 1914, c. 2, s. 17.

(2) "Owner" means and includes any person, firm, or corporation, the owner or lessee of a boiler, or the manager or other officer in charge of the business of any such firm or corporation;

(3) "Engineer" means any person having charge of or operating a steam boiler or the engine connected therewith;

(4) "Fireman" means any person having charge of a steam boiler or boilers only of a capacity limited under the provisions of this Act;

(5) "Person" means any male of the full age of eighteen years;

(6) "Minister" means the Minister of Public Works of the Province of Alberta;

(7) "Inspector" means a provincial chief inspector of boilers, or an inspector of boilers appointed under the provisions of this Act;

(8) "Inspection Certificate" means the certificate of inspection of any boiler issued by an inspector;

(9) "Certificate" means the provisional, final, or interim certificate of qualification issued to any engineer or fireman under the provisions of this Act;

(10) "Province" means the Province of Alberta;

(11) "Regulations" means regulations issued by the department by authority of the Minister for the proper carrying into effect of the provisions of this Act;

(12) "Department" means the Department of Public Works of the Province of Alberta;

(13) "In charge" and "having charge" shall apply to the person having the control and direction of the operations of a boiler or boilers or engine or engines.

#### **Application of Act.**

3. This Act shall apply to all boilers being operated within the province of Alberta except as hereinafter provided.

(2) The provisions of this Act shall not apply to steamboat boilers, and shall not apply to boilers used in operating railways owned by any duly incorporated railway company, which maintains adequate repair shops and employs competent boiler inspectors;

Provided that the owner of such boilers shall expose for public view a certificate of inspection, fully filled out and signed by the inspector appointed by such owner;

Provided further, if such boilers have not been inspected within twelve months or the rating of such boilers is not satisfactory to an inspector appointed under the provisions of this Act, such inspector may inspect and decide the working pressure of such boiler and issue a certificate for the same, and collect the fee prescribed by this Act for inspection of similar boilers for such inspection;

Provided nothing herein contained shall exempt from the operation of this Act a boiler in operation upon any switch, siding or other connection from any duly incorporated railway as above mentioned to the premises of any elevator, manufactory, industry or business, if such switch or siding does not form a part of and is not used by such railway company with whose track it is connected, nor any boiler operated in connection with such elevator, manufactory, industry or business.

(3) Boilers and their appurtenances used exclusively for heating purposes, but which are not herein required to be inspected, shall be provided with such appliances to insure safety as shall be prescribed by the regulations, and it shall be the duty of the inspector to inspect such boilers upon application of the owner or owners.

#### Appointment and Qualification of Inspectors.

4. The Lieutenant-Governor in Council may appoint a chief inspector of boilers, and inspectors of boilers for the purpose of carrying out the provisions of this Act, and may fix the remuneration of such chief inspector and inspectors, and assign to each of such inspectors a particular portion of the province within which he shall have jurisdiction under this Act.

(2) No person shall be appointed an inspector of boilers unless he is a British subject, has had five years' experience as a practical machinist or boiler maker, is the holder of an Alberta first-class engineer's certificate, is not interested directly or indirectly in the sale of boilers or steam machinery, and has passed a satisfactory examination before a board of examiners composed of inspectors, or such other persons as the Minister may direct.

(3) Every inspector, before entering upon the performance of his duties, shall take and subscribe the following oath:

"I, . . . . ., do swear that I will faithfully and honestly fulfil the duties which devolve upon me as inspector of boilers, and that I will not ask or receive any sum of money, service, recompense, or matter, or thing whatsoever, directly or indirectly, in return for what I have done or may do in the discharge of any of the duties of my said office, except my salary or what may be allowed me by law, or by an order of the Lieutenant-Governor in Council, and that I am not, nor will be directly nor indirectly interested in the sale of boilers or steam machinery. So help me God."

(4) Every inspector shall keep a true and complete record of all boilers inspected and all repairs ordered by him, of all boilers condemned by him as unsafe, of all accidents to boilers in his district, whether by explosion or otherwise, and of all casualties in connection with boilers in his district.

#### Duties of Inspectors.

5. Every boiler in the province shall be inspected internally and externally, or tested by a hydrostatic test in the ratio of one hundred and fifty per cent of the working pressure, or both, by an inspector once every year and at such other times as the inspector may see fit, and shall not be operated at pressures in excess of the safe working pressure stated in the inspection certificate, which pressure is to be ascertained from the regulations.

(2) In addition to such yearly inspection it shall be the duty of every inspector to inspect, at any time, when in his opinion such examination is necessary, all such boilers within his district as may be reported to him as unsafe, or, as he may have reason to believe, have become unsafe from any cause, and to notify the owner of such boiler if a defect is discovered, and of what repairs are necessary.

(3) If the owner of any boiler proves to the satisfaction of the inspector that his boiler has not been operated since the date of the previous inspection, and is in as good condition as when inspected, the inspector may issue a new inspection certificate without inspecting the boiler, and without charging any fee therefor.

6. If the owner of any boiler desires a special inspection or any other special service from an inspector, he shall be entitled to same upon application, but he shall be liable to the Minister for all expenses connected with the making of such inspection or the performance of such other services by such inspector.

7. Any inspector may, by notice in writing signed by him, require the attendance before him at a time and place to be mentioned in such notice of any person, and may examine the person so notified on oath regarding any matter connected with the inspection or operation of any boiler or any accident thereto; such person so summoned shall be entitled to the same witness fees as he would be entitled to on a small debt case in the courts of the province, unless the inspector shall otherwise order.

(2) Any person wilfully neglecting or refusing in any way to comply with the notice of the inspector, or to make oath, or to be examined as aforesaid, shall be guilty of an offence and liable on summary conviction thereof to a fine of not less than \$25 and not more than \$50, and on nonpayment of such fine forthwith after conviction to imprisonment for one month.

(3) Any person so examined shall not be excused from answering any question upon the ground that the answer may tend to criminate him, or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person, or to a prosecution under any Act of, or Ordinance in force in Alberta.

(4) Provided, however, that any evidence so given shall not be used or received in evidence against such person in any criminal or civil proceedings hereinafter instituted against him other than a prosecution for perjury in giving such evidence.



8. Every inspector shall render annually, on or before the thirty-first day of January in each year, a concise report to the Minister of all inspections made by him during the preceding year, and of all accidents and casualties that may have occurred in connection with the operation of boilers within his district.

9. If at any time the inspector discovers any defect in any boiler under pressure, which in the opinion of such inspector may cause immediate danger, he shall order the engineer to draw the fire and blow off the steam, and the engineer shall forthwith obey such instructions.

Provided, however, that no inspector shall order an engineer to draw the fire, or blow off steam from any boiler, upon which depends the continued operation of a ventilating fan, the stopping of which might endanger the life of any person engaged in a mine, without having first given sufficient notice to the manager to enable him to forthwith take all necessary precautions and steps for the removal or safety of all persons in and about the mine and for the adequate protection of the mine. 1913, c. 9, s. 33 (1).

(2) Every engineer shall assist the inspector in making his examination of any boiler or boilers in his charge, and shall point out to him any defects that he may know or believe to exist in said boiler or boilers, and in default thereof the inspector may take possession of the certificate of such engineer, and forward it to the Minister, together with a report on the circumstances of the case.

10. An inspection certificate shall not be granted for any new boiler which does not conform to the regulations.

11. Except as hereinafter provided, no second-hand boiler that has been in service shall be brought into the province and operated as a boiler.

(2) The owner of a second-hand boiler, or a boiler that has been in service outside the province, who wishes to operate same within the province, shall apply to the department for permission so to do, giving a complete description of the boiler and stating the exact location at which it is proposed that such boiler shall be operated; the department may thereupon cause the boiler to be inspected, and upon the issue of an inspection certificate stating that said boiler has been equipped with fittings and installed according to the regulations, the same may be operated; provided that the maximum working pressure to be allowed in any such case shall be computed by the formula contained in the regulations, with such further reduction as the inspector may direct.

(3) Any person violating the provisions of this section shall be guilty of an offence and liable on summary conviction thereof to a penalty of not less than \$25 and not more than \$50.

12. Every manufacturer of any boiler to be built under the regulations shall, before commencing work on such boiler, submit to the department for approval, accompanied by the fees required by the regulations, complete working shop drawings in triplicate of the proposed boiler, together with completed specifications in duplicate.

(2) Every manufacturer of boiler accessories for boilers built under the regulations shall submit to the department for approval, accompanied by the fees, working shop drawings in triplicate of the safety valves, stop valves, water gauges, gauge cocks, pressure gauges, blow-off valves, and other fittings connected immediately to the boiler.

(3) Any person who sells or otherwise disposes of a boiler not built to approved designs, or that does not conform to the regulations (provided an inspection certificate has not already been issued for such boiler), or a boiler fitting which has not been made according to an approved design, shall be deemed guilty of a breach of this Act.

(4) When any change is intended to be made in any approved drawings or specifications by the manufacturer or manufacturers, he or they shall immediately notify the department and submit revised drawings and specifications accordingly.

13. When any new boiler is shipped into the province, the manufacturer shall immediately mail to the purchaser, for the use of the inspector at his initial inspection, a copy of the approved specifications on forms prepared by the department and containing the shop foreman's affidavit, certifying that the boiler has been built according to the regulations, and according to the approved drawings and specifications, that a hydrostatic test has been applied (in the ratio required by the regulations) that the steam gauge is correct, and that the safety valve has been tested and is properly set to the working steam pressure of the boiler as rated by the department.

14. Any inspector may, at any reasonable hour, enter upon any property for the purpose of inspecting any boiler situated thereon, or for the purpose of ascertaining whether the provisions of this Act are being complied with, and also shall have the right at any reasonable hour to examine boilers in course of construction or undergoing repairs.

15. Any person interfering with or obstructing any inspector in the performance of his duties under this Act shall be guilty of an offence and liable on summary conviction to a penalty of not less than \$50 and not more than \$100.

16. Any agent or other person who sells or exchanges a boiler shall within thirty days after such sale or exchange, notify the Minister in writing by registered mail of

such sale or exchange, stating the name and address of the person to whom such boiler has been sold or exchanged, and shall, if such boiler has been inspected by an inspector, from and after the first day of January, 1912, state the number stamped on such boiler at such inspection by the inspector.

(2) No person shall sell or exchange any boiler which has been in use for more than two seasons for subsequent use as a boiler unless it is accompanied by an inspection certificate issued within one year next preceding the date of such sale or exchange.

(3) Nothing contained in the foregoing subsection shall affect any arrangement that may be made between a manufacturer and a purchaser in respect of an exchange of an old boiler in part payment for a new one, or the retaking possession of a boiler under a lien and the subsequent sale thereof.

#### General Provisions.

17. If, upon inspection, the inspector finds the boiler to be in safe working order, and properly set up, with fittings as prescribed by the regulations, he shall issue to the owner thereof an inspection certificate stating the maximum pressure at which the boiler may be operated, as ascertained by the regulations, and thereupon the boiler mentioned in the certificate may be operated. Such certificate shall continue in force until the boiler is inspected in the following year, or for such shorter period as the inspector may direct.

(2) Any owner or other person operating any boiler before an inspection certificate thereof has been granted, or after same has expired, shall be guilty of an offence and liable on summary conviction thereof to a penalty of not less than \$50 and not more than \$250. 1913, c. 9, s. 33 (2).

18. Every person who makes, or procures to be made, or assists in making, any false representation regarding the condition of any boiler in the form of an inspection certificate, or who forges, assists in forging, or procures to be forged, or fraudulently alters, or assists in fraudulently altering, or procures to be fraudulently altered, any such inspection certificate, or any official copy of any such inspection certificate, or who fraudulently makes use of any such inspection certificate, which is forged, altered, cancelled, suspended, or to which he is not justly entitled, or who fraudulently lends his inspection certificate to, or allows any other person to use the same in connection with any other boiler than that covered by such inspection certificate, shall be guilty of an offence, and liable upon summary conviction thereof to a penalty of not less than \$50 or three months' imprisonment; and any owner or other person holding such inspection certificate who fails to deliver up an inspection certificate which has been cancelled or suspended shall be deemed guilty of a breach of this Act, and liable upon summary conviction thereof to a penalty of not less than \$50 and not more than \$100.

(2) The inspection certificate shall be placed so as to be easily read, in a conspicuous place in the boiler room, or engine room of every stationary boiler, and shall be produced at any time by the owner or operator of any traction or portable boiler upon demand of an inspector or upon demand of a member of any police force. Any owner refusing or neglecting to post up or produce the inspection certificate shall be guilty of an offence and liable upon summary conviction thereof to a penalty of not less than \$10 and not more than \$25.

(3) Any owner who operates or causes to be operated a boiler without being in possession of an inspection certificate, or without notifying an inspector or the Minister of his intention so to operate, by registered letter, shall be guilty of an offence and liable upon summary conviction thereof to a penalty of not less than \$25 and not more than \$100.

19. The owner or operator of any boiler shall allow the inspector free access to the same, shall furnish the labour necessary for the inspection thereof, shall fill the boiler to permit all hydrostatic tests being made, shall, if required by the inspector, remove any jacket or covering from the boiler, and shall also bring to the attention of the inspector any defect which he knows or believes to exist in the boiler.

(2) The owner of the boiler which the inspector desires to inspect internally or externally shall cause it to be opened for inspection, scraped free from scale, the man-hole and handpole plates thereof removed and the flues therein cleaned, and all soot or ashes removed from the inside and outside of setting therein. In the case of a traction or portable boiler the owner or person in charge shall cause the furnace grates and straw burners, firebox and all heating surfaces to be thoroughly cleaned.

20. In order to satisfy himself as to the thickness of plate or its internal condition, the inspector may cut holes or may order holes to be cut in the same, and in the latter case the owner shall forthwith see that such orders are complied with.

(2) Any person violating any of the provisions of sections 19 or 20 hereof shall be guilty of an offence, and liable upon summary conviction thereof to a penalty of not less than \$25 and not more than \$100.

21. Any owner or other person in charge of a boiler failing to carry out the written instructions of an inspector for the safe operation and care of a boiler, including his

instructions for washing out and cleaning the interior, shall be guilty of a breach of this Act.

(2) Any such owner or other person in charge of a boiler may within thirty days from the receipt thereof appeal to the Minister from such written instructions of an inspector; the decision of the Minister shall be final and pending his decision such owner or other person in charge of a boiler shall carry out such written instructions.

22. A report of an explosion of any boiler shall be sent by the owner of such boiler within twenty-four hours after the explosion to the Minister; such report shall state the exact place at which the explosion occurred; the number of persons killed or injured, and the probable cause of the explosion.

(2) After the explosion of any such boiler no part or parts of the same shall be removed or their positions altered by any person until after examination by the inspector, except to rescue persons injured, or to remove the bodies of persons killed, without the written permission of the Minister.

(3) Any person violating any of the provisions of this section shall be guilty of an offence and liable on summary conviction thereof to a fine of not less than \$100 and not more than \$200, or to imprisonment for a term not exceeding three months.

23. On receipt of any report mentioned in the preceding section, the Minister shall cause a full investigation to be made as to the cause and circumstances of such explosion; said investigation shall be held at or near the place where such explosion occurred.

24. If any loss or damage is incurred or sustained by any person by reason of the explosion of a boiler, for which the owner has not obtained an inspection certificate, the onus of proof that such loss or damage did not arise through the negligence or improper conduct of the owner or person in charge of such boiler shall be upon the owner of such boiler.

25. An appeal shall lie from any ruling or decision of an inspector to the Minister, whose decision shall be final.

(2) On the hearing of any appeal it shall be lawful for the Minister, if he thinks fit, to summon to his assistance any expert engineer.

26. Any charge or neglect of duty or other complaint against the inspector shall be addressed to the Minister, and shall state fully the particulars of such charge or complaint.

27. Any owner or other person in charge who refuses or neglects to station a man to guard against steam being turned into a boiler which it is possible to connect with another boiler containing steam, during the period that any person is inside such first-mentioned boiler, shall be guilty of an offence, and liable upon summary conviction thereof to a penalty of not less than \$50 and not more than \$100.

#### Boiler Fittings.

28. No person shall operate boilers not previously inspected by an inspector in this province unless equipped with fittings as provided in the regulations.

29. Any person removing, destroying, or in any way tampering with the sealing device of any safety valve after it has been sealed by an inspector, or changing a safety valve without permission of an inspector, shall be guilty of an offence and liable upon summary conviction thereof to a penalty of not less than \$50 nor more than \$100.

30. It shall be the duty of the engineer in charge to blow, or cause the safety valve to blow off steam, at least once each day, to satisfy himself that the valves are in good order, and it shall be his duty to report to the inspector any failure of such valves to operate; in case no such report is made, and a safety valve is found to have been tampered with, or out of order, the certificate of the engineer having such boiler in charge shall be suspended or cancelled by the Minister.

31. Any person who alters or otherwise tampers with the pressure gauge, so as to prevent the actual pressure of the boiler from being easily seen and ascertained, shall be guilty of an offence and liable upon summary conviction thereof to a penalty of not less than \$10 and not more than \$50.

#### Inspection Fees.

32. The owner of every boiler in the province under the provisions of this Act shall pay a fee of \$5 for each and every boiler inspected.

(2) In the case of an inspection of any vessel carrying steam pressure of less than twenty pounds, used for heating water for domestic purposes or generating steam solely for heating buildings, the fee payable to the inspector by the owner for such inspection and the issue of such certificate shall be \$2.

(3) Any owner neglecting or refusing to pay the inspector such fee shall be guilty of a breach of this Act.

## Engineers and Firemen.

33. Any person not holding a final, interim or provisional certificate of qualification as an engineer, or a fireman of a heating plant, or a permit as hereinafter provided, who at any time operates any steam boiler governed by this Act, or is in charge of any steam boiler while in operation, whether as owner or engineer, or any engineer is in charge of and operates a boiler or boilers, or steam plant of a different or higher class than is authorized by the certificate held by any such engineer, or fails to produce the certificate upon demand by an inspector or member of any police force, shall be guilty of an offence and liable on summary conviction thereof to a penalty of not less than \$25 nor more than \$100. 1913, c. 9, s. 33 (3).

(2) Provided that where the representative of any manufacturer of boilers or engines is employed installing, testing, regulating, or otherwise superintending the installation or operation of such boilers or engines, he may do so upon applying for and receiving written authority from the Minister or an inspector.

34. If any owner of a steam boiler shows to the satisfaction of the Minister or an inspector that he is unable by reason of some unforeseen occurrence to immediately secure the services of a duly qualified person to operate such boiler, the Minister or inspector may grant a permit to any person producing satisfactory evidence of good conduct and sobriety to operate such boiler for a period of thirty days from the date of such permit. Provided, however, that notwithstanding anything to the contrary in this Act, when an application for such a permit has been made the owner, manager or agent of a mine may allow the person named in the application to operate such boiler for a period of six full days from the date of such application, or until such time as notice is received of the granting or refusing of the application whichever is the shorter time. 1913, c. 9, s. 33 (4).

35. The employer of any person who at any time operates any steam boiler governed by this Act, or is in charge of such steam boiler while in operation who has not a certificate, or permit as required by this Act, or who fails to produce such certificate upon demand by an inspector, or a member of any police force, shall be deemed guilty of an offence and liable on summary conviction thereof to a penalty of not less than \$50 and not more than \$150. 1913, c. 9, s. 33 (5).

(2) The certificate of any engineer in charge of an engine room or boiler room shall be exposed in a conspicuous place in such room.

(3) Any engineer who refuses or neglects to expose or produce his certificate shall be guilty of an offence and liable on summary conviction thereof to a penalty of not less than \$10 and not more than \$50.

(4) The absence of such certificate or its non-production upon demand shall be *prima facie* evidence that the person operating the engine or boiler has no certificate.

36. Certificates will be granted upon examination according to qualifications of the applicant as follows:

(1) First class: To have charge of and operate any steam plant.

(2) Second class: To have charge of and operate a boiler or boilers of a total capacity not exceeding 500 horsepower, and to have charge of and operate an engine or engines of a total capacity not exceeding 500 horse-power, or to operate any other plant under an engineer holding a first-class certificate in direct charge of the plant.

(3) Third class: To have charge of and operate a boiler or boilers of a total capacity not exceeding 200 horse-power, and to have charge of and operate an engine or engines of a total capacity not exceeding 200 horse-power (unless such certificate is otherwise limited) or to operate a boiler or boilers of a total capacity not exceeding 500 horse-power under an engineer holding at least a second-class certificate.

(4) Traction engineer's final certificate: To have charge of and operate a traction engine and boiler only.

(5) Provisional certificate: To have charge of and operate a boiler and engine of a capacity not to exceed 50 horse-power, for a period of one year.

(6) Second provisional certificate: To have charge of and operate a boiler and engine of a capacity not to exceed 50 horse-power, for a period of one year. This certificate may be granted to those candidates who have failed for a final certificate, as hereinafter mentioned.

(7) Final fireman's certificate. To have charge of and operate a heating boiler only, carrying a steam pressure of not more than 100 pounds.

(8) Provided the experience of an applicant for a certificate is limited to a steam shovel, or a hoisting or a portable boiler and engine only, a third-class, or provisional certificate may be issued to suit the case, said certificate being endorsed accordingly upon the face thereof.

37. Engineer's final certificates issued under The Steam Boilers' Ordinance of the North-West Territories shall entitle the holders thereof to operate in the province of Alberta: provided that the holders of second and third-class certificates issued under the said Ordinance shall not operate boilers of a larger capacity than the boilers which

under this Act may be operated by the holders of second and third-class certificates respectively issued under the provisions of this Act.

38. A candidate for a first-class certificate shall be at least twenty-five years of age, shall furnish proof that he has been employed as a machinist or boiler-maker, on the repairing or building of steam engines or boilers, for a period of not less than twenty-four months, and has had charge of a steam plant in which he operated a battery of boilers aggregating not less than three hundred horse-power in capacity, and that he has operated engines aggregating not less than three hundred horse-power in capacity, for a period of at least twelve months.

(2) A candidate for a second-class certificate shall be at least twenty-two years of age and shall furnish proof that he has served four years in charge of and operated a boiler or boilers and had charge of and operated an engine or engines, of not less than fifty horse-power, or that he has served twenty-four months in a workshop employed in the manufacture of engines or boilers, and has served as engineer of a steam plant of not less than seventy-five horse-power for a period of at least twenty-four months.

(3) A candidate for a third-class certificate shall be at least twenty years of age, shall furnish proof that he has served as fireman of a boiler or boilers, for a period of twelve months; has had charge of and operated a boiler or boilers, and has had charge of and operated an engine or engines for a further period of twelve months, or that he has served twelve months in a workshop employed on the manufacture or repairing of engines or boilers, and as fireman of a steam boiler for a further period of twelve months.

39. The final certificate, known as traction engineer's final certificate, will be granted to traction engineers upon satisfactorily passing a combined written and oral examination before an inspector; this certificate will be termed "**traction engineer's final certificate**," and will be valid to operate traction boilers and engines only.

40. Upon the applicant for a final certificate of qualification as an engineer completing the examination set by the inspector but before the results thereof are announced, the inspector may issue to such candidate an interim certificate of the class to which he would be entitled upon passing such examination, which certificate shall entitle the holder to operate as an engineer of the class therein specified, for a limited period to be specified in the certificate; such period shall in no case exceed thirty days.

41. A final fireman's certificate for operating a heating boiler only, in which over twenty pounds and not more than one hundred pounds of steam is carried, shall be granted upon the applicant passing a written and oral examination such as is laid down by the department; such applicant for a fireman's certificate for a heating boiler shall be required to produce satisfactory and conclusive evidence of at least six months' experience as an engineer or fireman of a steam boiler.

42. Any person who has had over twelve months' experience as an engineer or fireman outside the province, or any person who has served for twelve months in the province as fireman to the holder or holders of a final engineer's certificate, may apply to the Minister or an inspector for a provisional certificate of qualification for operation of boilers or engines not having a capacity of more than fifty horse-power, and the Minister, or such inspector, upon being satisfied that the applicant is a person of sufficient experience to justify the same, may cause the applicant to be orally examined by an inspector, and upon such applicant passing such examination satisfactorily he may be granted such provisional certificate valid for a period of one year from the date of issue thereof.

(2) Such provisional certificate may be renewed for a further period of one year, but no longer, and the applicant for such renewal may be required to pass an oral examination satisfactory to the inspector.

43. The Minister may, upon the recommendation of an inspector, grant a second provisional certificate, valid for a period of one year from its date, to any person who has submitted to an examination in accordance with the provisions of this Act, but has failed to receive from such inspector a recommendation for a final certificate of qualification, but no further or other provisional certificate shall be granted, unless such person is recommended for same by the inspector.

(2) The holder of a provisional certificate, or any one who in the opinion of an inspector has had sufficient or extensive experience in operating boilers and engines as to justify the same, may be granted a final certificate of qualification as an engineer, or fireman of a heating plant, upon passing such an examination which shall be conducted in accordance with such regulations as may from time to time be prescribed by the Minister, and the Minister shall determine the qualifications requisite for the candidates for the several classes of certificates, and shall prescribe the fees to be paid for such examination, and for the issue of certificates to the successful candidates.

44. The inspector shall determine the class of examination which the applicant shall undergo, whether for first, second or third-class certificate, and after such examination, if found competent, the applicant shall receive a certificate graded according to the

merits of his examination, irrespective of the grade of certificate for which he applied.

(2) Any candidate failing to pass the required examination for first or second-class certificates shall not be allowed to present himself for further examination for a period of one year, during which term he must operate as an engineer, and upon further application show satisfactory evidence of additional experience.

45. Any person who holds a certificate of qualification as an engineer for operating boilers and engines, granted under the provisions of any Act of the Parliament of Great Britain and Ireland, or of the Dominion of Canada, or of any province therein or of any other part of His Majesty's dominions, may, upon making application to the Minister, accompanied by such evidence of qualification as may be required by the Minister, and upon satisfactorily passing an examination before an inspector if deemed necessary by the Minister, obtain a certificate of qualification as an engineer in the class determined by the Minister.

46. Every person who makes, or procures to be made, or assists in making, any false representation for the purpose of obtaining for himself or for any other person, a certificate of competency or service, or who forges, or assists in forging, or procures to be forged, or fraudulently alters, or assists in fraudulently altering or procures to be fraudulently altered, any such certificate, or any official copy of any such certificate, or who fraudulently makes use of any such certificate which is forged, altered, cancelled, suspended, or to which he is not justly entitled, or who fraudulently lends his certificate to, or allows the same to be used by any other person, shall for such offence be deemed guilty of an offence, and shall be liable upon summary conviction thereof to a penalty of not less than \$50 and not more than \$100, and any engineer who fails to deliver up a certificate which has been cancelled or suspended shall be liable to a penalty of not less than \$25 and not more than \$100.

(2) Any person other than the holder thereof becoming possessed of a certificate shall transmit it forthwith to the department.

47. If a candidate for a final certificate should be unable to write, he may employ some person to write the examination therefor from his dictation; such person shall not be an engineer, and shall, before performing any duties under the provisions of this section, subscribe before an inspector the following oath:—

"I, A. B., of the . . . . . in the province of Alberta . . . . . swear: That I will truly, faithfully and accurately without alteration or interlineation of any kind, transcribe the answers dictated to me by C. D. . . . . (here insert name of candidate) a candidate for a final certificate, under the provisions of The Boilers Act. So help me God."

(2) If such candidate should be unable to speak the English language, he may employ some person as interpreter; such person shall not be an engineer, and shall, before performing any duties under the provisions of this section, subscribe before an inspector the following oath:

"I, A. B., of the . . . . . in the province of Alberta . . . . . swear: That I shall truly and faithfully interpret the questions and the answers given on the examination of C. D. (here insert the name of candidate), a candidate for a final certificate under the provisions of The Boilers Act, and all other matters connected therewith, and the Italian (or German, or as the case may be) language into the English language, and the English language into the Italian (or German, as the case may be) language, according to the best of my skill and ability. So help me God."

48. Any candidate may appeal in writing to the Minister from the decision of the inspector in regard to any examination, and the decision of the Minister in regard to such examination shall be final.

49. If an inspector should find an engineer, or fireman of a heating plant, violating any of the provisions of this Act, or in any way negligently operating a steam plant in his charge, or under the influence of liquor while on duty, he may take possession of such engineer's or fireman's certificate, and remit the same to the department together with a full report of the circumstances of the case.

(2) The Minister may, upon due cause being shown, cancel or suspend any certificate issued under the provisions of this Act, and any person whose certificate is so cancelled or suspended shall be deemed guilty of a breach of this Act, and liable to the penalties hereinafter imposed.

50. If any owner believes that his boiler or engine has been damaged through the negligence of the engineer in charge, he shall immediately report such negligence to an inspector, verifying the facts contained in such report by a statutory declaration.

(2) Such inspector shall thereupon immediately investigate the charge and may, if he deem proper, demand and obtain from such engineer in charge his certificate, and shall immediately forward a report of any investigation made under the provisions of this section to the Minister, together with the certificate, if any, which he has ordered to be delivered up by the engineer in charge; the Minister may thereupon order such certificate to be returned to such engineer, suspend the operation of said certificate for such period as he may deem just, or cancel such certificate.



(3) Any engineer in charge refusing to deliver up his certificate when same is demanded by an inspector under the provisions of this section shall be deemed guilty of a violation of this Act.

51. The fees for the issue of a permit under section 34 hereof, by an applicant for examination under section 36 or by applicant for a certificate under sections 42 or 45 respectively shall be as follows:—

|   |         |
|---|---------|
| First-class certificate .. . . .            | \$10 00 |
| Second-class certificate .. . . .           | 5 00    |
| Third-class certificate .. . . .            | 5 00    |
| Final traction certificate .. . . .         | 5 00    |
| Final fireman's certificate .. . . .        | 2 50    |
| Second provisional certificate .. . . .     | 5 00    |
| Provisional certificate .. . . .            | 5 00    |
| Renewal of provisional certificate .. . . . | 2 50    |
| Permit .. . . .                             | 5 00    |

(2) All fees payable under this Act shall be paid into general revenue fund.

52. If a certificate is lost or destroyed, a duplicate may be issued upon satisfactory proof to the department, and upon receipt of the fee authorized by this Act, for the issue of an original certificate of the same class.

53. The owner of a plant where there is a battery of boilers of a capacity exceeding five hundred horse-power and where such battery of boilers is contained in a building separate from the rest of the plant shall in addition to such engineers as he is otherwise required to employ under the provisions of this Act, employ engineers holding at least second-class certificates in charge of such battery of boilers on both day and night shifts.

54. No engineer or fireman of a boiler or boilers shall absent himself from duty in connection therewith for more than ten minutes at a time while the same is in operation. 1913, c. 9, s. 33 (6).

55. The Minister may from time to time make such regulations and prescribe such forms as may be deemed necessary for the proper carrying into effect of the provisions of this Act, and such regulations shall have the same force and effect as if they were included in this Act and herein enacted.<sup>1</sup>

56. Any person guilty of a breach of any of the provisions of this Act, or any regulations made thereunder, for which no penalty is herein specified, shall on summary conviction thereof be liable to a penalty not less than \$50 and not more than \$100.

57. All fees and penalties mentioned in this Act may be recovered and enforced with costs on summary conviction before a justice of the peace.

58. The Steam Boilers Act, being chapter 23 of the Statutes of Alberta, 1906, and all amendments thereto, are hereby repealed.

#### Hours of Labour—Early Closing in Shops.

Chapter 23 with amendment.—1. This Act may be cited as The Early Closing Act.

2. In this Act, unless the context otherwise requires—

(1) The expression "shop" shall mean any premises or place where retail trade, including the business of a barber, is carried on;

(2) The expression "council" means the council of a city or a town having a population of not less than 1,000;

(3) "Closing by-law" means a by-law passed under the provisions of this Act;

(4) "Closing hour" means the hour for closing of shops, fixed by any such by-law.

3. The council of any city or town whether incorporated by special Act or otherwise having a population of not less than one thousand inhabitants may in the manner provided by this Act fix the hours of the several days of the week at and after which, either throughout the whole area of the city or town, or in any specified part thereof, all shop or shops of any specified class are to be closed for serving customers.

4. The hour fixed by any such closing by-law shall not, except as hereinafter provided, be earlier than six o'clock in the evening on any day of the week;

Provided, however, that on any one specified day of the week such closing hour may be an hour not earlier than twelve o'clock noon.

5. A closing by-law may prohibit, either absolutely or subject to such exemptions and conditions as may be therein contained, the carrying on of any retail trade, or business, after the closing hour in any place not being a shop within the area of the city or town to which such by-law applies, if under the terms of said by-law, or

<sup>1</sup> Under this section detailed regulations have been issued containing specifications with respect to the design, material, workmanship, and fittings to be used in the construction of boilers. Certain provisions respecting the inspection of boilers are also included in the regulations.



any other by-law passed under the provisions of this Act, it would be unlawful at such time to keep a shop open for the purpose of the carrying on of any such trade or business.

6. Any such by-law may—

(a) Define the shops and trades to which it applies;

(b) Authorize sales after the closing hour in cases of emergency, and under such other conditions as the council may deem advisable.

7. A closing by-law shall not be deemed to apply to sales made at any fair or exhibition lawfully held, or at a bazaar for charitable or church purposes, nor to any shop where the only trades or businesses carried on are one or more of the trades or businesses mentioned in the schedule hereto.

8. If several trades or businesses are carried on in the same shop, and if the closing by-law does not apply to any one or more of such trades or businesses, such shop may be, on such terms and conditions as may be specified in the closing by-law, kept open after the closing hour for the purposes of those trades and businesses only:

Provided that the terms and conditions of any closing by-law in regard to post office business shall be subject to the approval of the Postmaster General of the Dominion of Canada.

9. If a petition for a closing by-law is presented to the council, signed by the occupiers of at least two-thirds in number, of the shops to be affected by the proposed by-law, the council shall give notice in the manner and form hereinafter prescribed of their intention to pass a closing by-law, specifying therein a period to be fixed, in the manner hereinafter prescribed, within which any objections to the petition upon the ground that it is insufficiently signed or otherwise affecting the validity or sufficiency thereof will be received; if there are no such objections, or if after hearing any such objections, the council deem them to be not well founded, such council shall forthwith pass a closing by-law.

10. No such by-law shall be effective until it has been approved by the Lieutenant-Governor in Council, and the Lieutenant-Governor in Council may at any time order that any closing by-law, either wholly or in so far as it affects a particular class of shops or trades, shall be no longer in force, and from and after the making of such order such by-law shall either be wholly void and of no effect or cease to apply to such particular class of shops or trades as the case may be.

11. If at any time it appears to the satisfaction of the council that the occupiers of a majority of any class of shops, to which a closing by-law applies, are opposed to the continuance of the by-law, such council shall repeal the by-law in so far as it affects that class of shops:

Provided, however, that any such repeal shall be without prejudice to the right of the council at any time to pass a new closing by-law in the manner herein provided affecting such class of shops.

12. Any person violating any of the provisions of a closing by-law shall be liable on summary conviction—

(a) For a first offence, to a fine not exceeding \$5 and costs.

(b) For a second offence, to a fine not exceeding \$25 and costs; and

(c) For a third or subsequent offence, to a fine not exceeding \$100 and costs:

Provided that no person shall be deemed guilty of an offence against any closing by-law who serves after the closing hour any customer who was in the shop at such hour. 1913, second session, c. 2, s. 23.

13. The Lieutenant-Governor in Council may from time to time make regulations for prescribing the form, in which and the period for which notice of the intention to pass any closing by-law must be given, the manner in which such notice shall be given, and the manner of ascertaining the opinion of occupiers of shops, and generally the means for carrying into effect the provisions of this Act.<sup>1</sup>

#### SCHEDULE.

Post office business.

The sale of medicines and surgical appliances.

The sale of intoxicating liquors for consumption on the premises.

The sale of tobacco and other smokers' requisites.

The sale of newspapers.

The business carried on a railway foodstall or at a railway refreshment room.

<sup>1</sup> Regulations have been issued under this section respecting the points mentioned therein.

### Licensing of Moving Picture Operators.

Chapter 25.—3. The Lieutenant-Governor in Council shall have power to make regulations for—

(a) Licensing, controlling and governing the use and operation of cinematographs, moving picture machines or similar apparatus;

4. The owner, user or exhibitor of every cinematograph, moving picture machine, or other similar apparatus . . . . and the person operating such cinematograph, moving picture machine or other similar apparatus shall each pay in advance to the Provincial Secretary an annual license fee, the amount of which may from time to time be fixed by the Lieutenant-Governor in Council.

## STATUTES OF 1913, FIRST SESSION.

### Inspection and Regulation of Mines.

Chapter 4.—1. This Act may be cited as The Mines Act.

#### Application.

2. This Act shall apply to mines of coal, stratified ironstone, shale, clay and other minerals.

3. If any question arises (other than in legal proceedings) as to whether a mine is a mine to which this Act applies, the question shall be referred to the Minister, whose decision thereon shall be final.

#### Interpretations.

4. In this Act and in any regulations made thereunder, unless the context otherwise requires—

(a) "Mine" means a mine to which this Act applies, and includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven for commencing or opening any mine, or for searching for or proving any minerals, or for the operation of same and all the shafts, levels, planes, workings, machinery, tramways, railways, and sidings, both below ground and above ground in and adjacent to a mine, and any such shaft, level and inclined plane of and belonging to the mine;

(b) "Shaft" means a vertical opening through the strata that is or may be used for the purpose of ventilation or drainage or for the ingress or egress of persons, animals, or materials to or from a mine or any part thereof;

(c) "Inclined plane" includes a slope, and means an incline or opening driven on an angle through the strata and which is or may be used for the same purposes as a shaft;

(d) "Tunnel or level" means an excavation in the earth or strata driven horizontally or at such an inclination as may be necessary for drainage, ventilation or haulage purposes, or which is or may be used for the ingress or egress of persons, animals, or materials to or from a mine or any part thereof;

(e) "Outlet" includes any shaft, inclined plane, tunnel, level or any other means of ingress or egress to or from a mine;

(f) "Plan" includes a map and section or a correct copy or tracing of any original plan as so defined;

(g) "Minister" means the Minister of Public Works for the province;

(h) "Chief inspector" means the Chief Inspector of Mines appointed under this Act;

(i) "District Inspector" means a District Inspector of Mines appointed under this Act;

(j) "Inspector" means the Chief Inspector of Mines or a District Inspector of Mines appointed under this Act;

(k) "Owner" when used in relation to any mine, means any person or body corporate who is the immediate proprietor or lessee, or occupier of any mine or of any part thereof and does not include a person or body corporate who merely receives a royalty or rent from a mine or is merely the proprietor of a mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine, but any contractor for the working of any mine or part thereof shall be subject to this Act in like manner as if he were an owner, but so as not to exempt the owner from liability;

(l) "Agent" means any person having on behalf of the owner, the care or direction of any mine or part thereof;

(m) "Manager" means the chief officer having the control and daily supervision of any mine;

- (n) "Overman" means any person in charge of any mine or any portion of a mine next in authority to the manager;
- (o) "Examiner" means an examiner as provided for under this Act;
- (p) "Shot-lighter" means a shot-lighter as provided for under this Act;
- (q) "Board" means a board of examiners as provided for under this Act;
- (r) "Workman" means for the purpose of sections 9, 10, 11, and 12, any person employed in a mine below ground who is not an official of the mine or a furnace man, fan man, cager, or onsetter, horse keeper or pumpman; and any body of workmen whose hours for beginning and terminating work in the mine are approximately the same shall be deemed to be a shift of workmen;
- (s) The "Supreme Court" means the Supreme Court of Alberta.

#### Employment of Persons.

5. The owner, agent or manager of every mine to which this Act applies shall keep in the office at the mine a book (the form of which shall be prescribed by the Minister) in which shall be entered the name, age, residence and date of first employment of every person employed in connection with the mine and such book shall be produced to an inspector for inspection by him when demanded.

6. No boy under the age of sixteen years shall be permitted or allowed to work in any mine below ground.

(2) Where there is a shaft, an inclined plane or level in any mine whether for the purpose of entrance to same or for communication from one part to another part of same and persons are taken up or down or along such shaft, plane or level by means of an engine, windlass or gin, driven or worked by steam, manual labour or other power, no person shall have or be allowed to have charge of such engine, windlass or gin or any part of the machinery, ropes, chains or tackle connected therewith unless he is a male person of at least eighteen years of age:

Provided that when the engine, windlass or gin is worked by a horse, mule or other animal, the person under whose direction the driver of such animal acts, shall, for the purpose of this subsection, be deemed to be the person in charge of such engine, windlass or gin, but such driver shall not be under sixteen years of age.

(3) No boy under the age of fourteen years shall be employed or permitted to work in or about any mine above ground, and no boy under the age of sixteen years and over the age of fourteen years shall be employed or permitted to work in or about any mine above ground unless he is able to read and write and is familiar with the rules of arithmetic, and furnishes a certificate to that effect from a duly qualified school teacher in this province actually engaged as such at the time of granting such certificate.

(4) No woman or girl of any age shall be employed or permitted to work in or about any mine above or below ground.

(5) Nothing however contained in this section shall prevent any person from working in an office above ground connected with any mine.

7. Every such school teacher shall, without payment of any fee, upon application by any boy, examine him and grant such certificate if he is found to be entitled to the same.

8. If any boy has been employed on the representation of his parent or guardian, that he was of the proper age under this Act, the owner, agent or manager shall, notwithstanding that such boy was not of the proper age, be exempt from liability in respect of such employment; but the parent or guardian who made such misrepresentation shall be guilty of an offence against this Act.

9. Subject to the provisions of this Act, a workman shall not be below ground in a mine for the purpose of his work or of going to or from his work, or be allowed to be below ground for that purpose, for more than eight hours during any consecutive twenty-four hours.

(2) It shall not be deemed to be a contravention of this section if—

(a) The period between the times at which the first workman in the shift leaves the surface and the first workman in the shift returns to the surface, and the period between the times at which the last workman in the shift leaves the surface and the last workman in the shift returns to the surface, do not exceed the time fixed by this section; or

(b) A workman is below ground for the purpose of rendering assistance in the event of accident, or for meeting any danger, or for dealing with any emergency or exceptional work which requires to be dealt with without interruption in order to avoid serious interference with ordinary work in the mine.

(3) The owner, agent or manager of every mine shall fix for each shift of workmen in the mine, the times at which the lowering of workmen to the mine is to commence and to be completed, and the times at which the raising of workmen from the mine is to commence and to be completed and the same shall be fixed in such manner that every workman shall have an opportunity of returning to the surface without contra-

vention of the foregoing provisions of this section, and shall post at the pit-head, a conspicuous notice of the times so fixed, and shall make all arrangements necessary for the observance of those times in lowering and raising the workmen.

(4) The interval between the times fixed for the commencement and for the completion of the lowering and raising of each shift of workmen to and from the mine shall not exceed the time reasonably required for the purpose and the same shall be approved by the Chief Inspector.

(5) A repairing shift of workmen may, notwithstanding the provisions of this section, for the purpose of avoiding work on Sundays, commence their period of work on Saturday before twenty-four hours have elapsed since the commencement of their last period of work so long as at least eight hours have elapsed since the termination thereof.

(6) In the event of any contravention of this section no person shall be deemed to be guilty of an offence if he can prove that he has taken all reasonable means to prevent same.

10. The owner, agent or manager of every mine shall appoint a person or persons to direct at the pit-head the lowering and raising of workmen to and from the mine, and shall cause a book (the form of which shall be prescribed by the Minister) to be kept, in which shall be entered the times at which workmen are lowered into and raised from the mine, and the cases in which any workman is below ground for more than the time fixed by this Act and the cause thereof.

(2) The workmen in a mine may, at their own cost, appoint and station one or more persons whether holding the office of check-weigher or not, to be at the pit-head at all times when workmen are to be lowered or raised, for the purposes of observing the times of lowering and raising, and the provisions of this Act relating to the appointment of the check-weigher, and to the relations of the owner, agent or manager of the mine to the check-weigher, shall apply to any person appointed under this subsection.

(3) No person shall wilfully make a false entry in the said book which is to be kept under this section, nor wilfully cause nor wilfully permit any such false entry to be made.

11. The Lieutenant-Governor in Council may, in the event of great emergency, or of any grave economic disturbance due to the demand for coal exceeding the supply available at the time, suspend the operation of this Act so far as it relates to the limiting of hours of work below ground to such extent and for such period as may be named in the order either in respect to all mines or any class of mines.

12. In the application of this Act to mines which are entered otherwise than by shafts, and to workmen who are not lowered to or raised from the mine by means of machinery, the words, "the admission of workmen to the mine" shall be substituted for the words "the lowering of workmen to the mine," and the words "the return of workmen from the mine," shall be substituted for the words "the raising of workmen from the mine," and the times fixed by the owner, agent or manager of the mine, under section 9 hereof shall be substituted for the times so fixed under this section.

#### Single Outlets.

13. The owner, agent or manager of a mine shall not employ any person therein, nor permit any person to be therein for the purpose of employment unless the following conditions respecting outlets to the surface are complied with, that is to say:

(2) Every seam which is for the time being at work shall have at least two outlets to afford proper means of egress available to the persons employed in such seam.

(3) Such outlets shall not at any point be nearer to one another than one hundred feet and there shall be between such outlets a communication not less than four feet wide and four feet high:

Provided, however, that nothing in this subsection shall apply to mines in operation before the first day of March, 1908, which have outlets not at any point nearer to one another than forty-five feet.

(4) Proper apparatus or ladders for the descent and ascent of persons at such outlets shall be kept on the works belonging to the mine and such apparatus or ladders shall be constantly available for use.

(5) Every part of a mine in which ten or more persons are employed at the same time, shall be provided with at least two ways affording proper egress to the surface; but this provision shall not apply when the same is exempt by written order of the Minister.

(6) The Supreme Court or any judge thereof, whether any other proceedings have been taken or not, may upon the application of the Attorney General prohibit by injunction the working of any mine in which any person is employed or is permitted to be for the purpose of employment, in contravention of this section and may award such costs in the matter of the injunction as the court or judge thinks just; but this provision shall be without prejudice to say other remedy permitted by law for enforcing the provisions of this Act.

(7) Written notice of the intention to apply for such injunction in respect to any mine shall be given to the owner, agent or manager of the mine, not less than ten days before the application is made.

14. No person shall be precluded by any agreement from doing such acts as are necessary for providing a second outlet to a mine, where the same is required by this Act, or be liable under any contract to any penalty or forfeiture for doing such acts as are necessary to comply with the provisions of this Act with respect to outlets.

15. The foregoing provisions of this Act with respect to outlets shall not apply to—

(a) A new mine or seam being opened;

(b) Any working for the purpose of making a communication between two or more outlets;

(c) Any working for the purpose of searching for or proving minerals; so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connection with a single outlet.

(2) Any proved mine which is exempt by order of the Minister on the ground either—

(a) That the quantity of mineral proved is not sufficient to repay the outlay which would be occasioned by sinking or making a second outlet, or by establishing communication with a second outlet in any case where such communication existed and has become unavailable; or

(b) That the workings of any seam of the mine have reached the boundary of the property or the extremity of the mineral field of which that seam is a part, and that it is expedient to work away the pillars already formed in course of ordinary working notwithstanding that one of the outlets may be cut off by so working away the pillars of the same; and so long as not more than twenty persons are employed underground at any one time in the whole of the different seams in connection with a single outlet.

(3) Any mine while an outlet is being made therefrom or where one of the outlets of which has become by reason of some accident unavailable for the use of the persons employed in the mine so long as the mine is exempt by order of the Minister.

#### Board of Examiners.

16. For the purposes of this and the next succeeding section, the province shall be divided into districts, the number and limits of which shall be fixed and defined from time to time by the Minister.

17. For the purpose of granting certificates under this Act, the Lieutenant-Governor in Council may appoint a District Board of Examiners for each district, or a Provincial Board having jurisdiction over all said districts.

(2) Such District Board shall consist of—

(a) The Chief Inspector or a District Inspector appointed by him;

(b) One manager;

(c) One working miner.

(3) If a Provincial Board is appointed under this section, it shall consist of—

(a) The Chief Inspector, or a District Inspector appointed by him;

(b) Two managers;

(c) Two working miners;

and when said Provincial Board is appointed the functions and duties of the District Boards shall cease.

(4) The board shall conduct all examinations for the granting of certificates.

18. Each Board of Examiners shall prepare rules for its guidance under this Act and may from time to time amend or revoke same for the conduct of such examinations and for determining the qualifications of all applicants, so, however, that in every such examination, regard shall be made to such knowledge as is necessary for the practical working of mines in the province and for the determination of the qualifications of applicants for certificates and shall do such other things as are necessary for the proper discharge of their duties under this Act.

(2) Such rules or regulations and all amendments thereto shall, before coming into force be approved by the Minister.

(3) The Lieutenant-Governor in Council may at any time alter or revoke any rules or regulations made by the Board of Examiners.

19. The fees and travelling expenses to be paid to the District Boards or to the Provincial Board and the fees to be paid by applicants for certificates, may be determined by the Lieutenant-Governor in Council.

20. In no case shall a certificate be granted to any applicant until he has satisfied the Board of Examiners as follows:

(2) If an applicant for a managers' certificate, that he has had at least five years' practical experience in a coal mine, either in Canada or partly in Canada and partly elsewhere, or is the holder of a diploma in scientific and mining training after a course of study of at least two years at an educational institute approved by the Minister, or has taken a degree in scientific and mining subjects at a university so approved,

together with three years' practical experience in a coal mine, part of which has been in Canada, and that he is at least twenty-five years of age, and throughout this Act such certificate may be referred to as a first-class certificate.

(3) If an applicant for an overman's certificate, that he has had at least three years' practical experience in a coal mine and is at least twenty-three years of age, and throughout this Act such certificate may be referred to as a second-class certificate.

(4) If an applicant for an examiner's certificate, that he has had at least three years' practical experience in a coal mine and is at least twenty-three years of age, and throughout this Act such certificate may be referred to as a third-class certificate.

(5) In addition thereto, every applicant mentioned in this section shall produce to the board, satisfactory evidence of sobriety, experience and general good conduct, and shall produce a certificate from a duly qualified medical practitioner, or from a recognized ambulance society showing that he has taken a course in ambulance work fitting him to give first aid to persons injured in or about a mine.

21. All examination papers shall be set, prescribed and examined by such person or persons as the Minister may appoint or nominate; and such person or persons shall submit to the board the results of said examinations together with the papers so examined and the successful applicants shall be recommended by the board to the Minister for certificates under this Act.

(2) The Chief Inspector shall sign and deliver to every successful applicant the certificate to which he may be entitled.

(3) The Chief Inspector may sign and deliver a certificate without examination to an applicant who is the holder of a certificate granted in this or any other country, if the board reports that the standard of training and examination required for the granting of such certificate is equivalent to that required for the granting of a corresponding certificate under this Act.

22. The qualifications of applicants for second and third class certificates shall be of a standard suitable for practical working miners; examinations for second class certificates shall be partly written and partly oral and examinations for third class certificates shall be oral:

Provided, however, that each applicant shall satisfy the board that he is able to read and write in the English language.

23. A register of the holders of certificates shall be kept by such person and in such manner as the Minister may direct.

24. The Chief Inspector shall make a return and transmit to the Minister all fees collected by him.

#### Certificated Persons.

25. No person shall act or be permitted to act as manager in any mine unless he is the holder of a first class certificate, granted under this Act.

26. No person shall act or be permitted to act as overman in any mine unless he is the holder of a first or second class certificate granted under this Act, or unless he is the holder of a provisional certificate granted by the Chief Inspector authorizing him to act in such capacity for a period not more than sixty days after the next examination is held for the district in which the mine is situated and for which the provisional certificate is granted.

27. No person shall act or be permitted to act as examiner or shot-lighter in any mine where locked safety lamps are required to be used unless he is the holder of a certificate granted under this Act, or unless he is the holder of a provisional certificate granted by the Chief Inspector authorizing him to act in such capacity for a period not more than sixty days after the next examination is held for the district in which the mine is situated and for which the provisional certificate is granted.

28. Any person who has been granted a provisional certificate authorizing him to act as overman at any mine operated under this Act shall not be granted a renewal of such certificate nor shall he be granted a second provisional certificate.

(2) The Chief Inspector may, however, grant a provisional certificate for the period mentioned therein to any person who has had at least five years' practical experience authorizing him to act as overman in any mine.

29. Every mine shall be under the control and supervision of one manager who shall hold a first class certificate under this Act and who shall examine and initial at the mine all report books at least once in every ten days and the owner or agent of every mine shall nominate himself or some other person to be manager thereof, and shall within thirty days after such nomination is made, send written notice to the Minister and to the District Inspector of the name and address of such manager and the number of his certificate.

(2) The underground workings of every mine shall be under the daily charge of an overman holding a first or second class certificate under this Act.

(3) No mine shall be worked for more than thirty days without the appointment of a manager as provided in subsection (1) of this section, but such owner or agent shall not be guilty of an offence if he can prove that he has taken all reasonable means to appoint a manager under said subsection.

(4) If for a reasonable cause there is for the time being no manager of a mine qualified as required by this section, the owner or agent of such mine, may, subject to the written approval of the Chief Inspector appoint any person holding a second class certificate under this Act to be manager for a period not exceeding thirty days or such longer period as elapses before such person has an opportunity of obtaining by examination a first class certificate under this Act, and the said owner or agent shall immediately send to the Minister and to the District Inspector a written notice of the name and address of such overman and the reason for such appointment.

(5) A mine in which less than thirty persons are employed under ground shall be exempt from the provisions of this Act in so far as it relates to the appointment of a manager, unless the Chief Inspector, by notice in writing served on the owner or agent requires the same to be under the control of a manager; but the operations underground shall be under the daily charge of a person holding a second class certificate under this Act unless permission is given by the Minister that the operations under ground may be under the daily charge of a competent person known to the Chief Inspector.

(6) Any person employed as an overman under this Act shall devote his whole time to the supervision of the mine or part thereof and the fulfilling of his statutory duties but nothing in this section shall be taken to mean that he cannot do such acts as are necessary for the safety of the mine or of the persons employed therein.

(7) After the first day of January, 1914, no person who is manager of a mine shall, without the approval in writing of the Chief Inspector, be manager of any other mine required to be under the control of a manager unless all said mines are within a distance of ten miles of the mine for which he was first appointed.

(8) When any person is appointed to be manager of two or more mines required to be under the control of a manager, there shall be an overman appointed at each mine.

30. If at any time complaint is made to the Minister that any person holding a certificate under this Act is by reason of incompetency or gross negligence unfit to discharge his duty or has been convicted of an offence against this Act, the Minister may make inquiry touching the said complaint and for the purposes thereof, the following provisions shall have effect:

(1) The inquiry shall be public and shall be held at such place as the Minister directs.

(2) The Minister shall, before commencing the inquiry, furnish the person against whom the complaint is made with a statement of same and such person may attend the inquiry or be represented thereat by agent or solicitor, and he may, if desired, be sworn and examined as a witness in the case.

(3) The Minister shall have power to cancel or suspend the certificate of the person against whom said complaint is made if he finds that he is by reason of incompetency or gross negligence or of his having been convicted of an offence against this Act unfit to discharge his duty.

(4) The Minister may require the person against whom the complaint has been made to deliver up his certificate to the Minister; the Minister may hold said certificate until the conclusion of the inquiry and he may then either return, cancel or suspend the same.

(5) The Minister may also by summons under his hand require the attendance of any person or persons and examine them for the purpose of the inquiry, and every person so summoned shall be allowed such fees as are allowed to a witness attending on a subpoena in proceedings before the Supreme Court.

(6) The Minister may make such order, as he may think fit, respecting the costs and expenses of the inquiry and such order shall, on the application of any person entitled to the benefit of the same, be enforced by any court of summary jurisdiction as if such costs and expenses were a penalty imposed by such court.

31. When a certificate is cancelled or suspended in pursuance of this Act, the Minister shall cause such cancellation or suspension to be recorded in the register of holders of certificates.

32. The Minister may, in his discretion at any time, renew, revive or restore on such terms as he may think fit, any certificate which has been cancelled or suspended in pursuance of this Act.

33. Whenever any person proves to the satisfaction of the Minister that he has, without fault on his part, lost or been deprived of any certificate previously granted to him, the Minister may cause a duplicate of the certificate to which the applicant appears by the register to be entitled, to be made out and certified by the person who keeps the register and delivered to the applicant; and every copy which purports to be so made and certified shall have all the effect of the original certificate.



### Payment of Wages.

34. No wages shall be paid to any person employed in or about any mine, at, or within any hotel or place where any spirituous or fermented liquor is authorized to be sold or in any house of entertainment, office, garden or place belonging thereto or connected therewith.

(2) All wages earned by any person or persons employed in or about a mine from the first day to the fifteenth day of each month, both days inclusive, shall be paid on the first Saturday of the following month, and all wages earned from the sixteenth day to the last day of each month, both days inclusive, shall be paid on the third Saturday of the following month:

Provided, however, that if the said first or third Saturday of any month is a holiday the wages payable on such Saturday shall be paid on the Friday next preceding such Saturday.

35. When the amount of wages paid to any of the persons employed in a mine depends on the amount of mineral gotten by them, such persons shall be paid according to the weight or measurement of the mineral gotten by them and such mineral shall be truly weighed accordingly at a place as near to the mine entrance as is reasonably practicable or measured at the working face.

(2) Nothing in this section shall preclude the owner, agent or manager of any mine from agreeing with the persons so employed and paid that deductions shall be made in respect of stones or material other than mineral contracted to be gotten which are sent out of the mine with the mineral contracted to be gotten or in respect to any tubs or cars being improperly filled in those cases where they are filled by the getter of the mineral, or by the loader, or by any person immediately employed by him, and no such deductions shall be made until such agreement is made in writing on behalf of both parties.

(3) If such deductions are not mutually agreed upon, they shall be determined as follows:

(a) In any special manner agreed upon between the owner, agent or manager of the mine on the one hand, and the persons so employed and paid on the other; or

(b) By some person appointed for that purpose by the owner, agent, or manager and by a person appointed by such employees who may be the check-weigher if any check-weigher has been appointed as in this Act provided; or

(c) If the persons appointed under the preceding subsection fail to agree, then by a third person to be chosen by the persons so appointed and if they cannot agree upon such appointment then by some person appointed by the Minister.

(4) If any owner, agent or manager, or the persons so employed in any mine, fail to appoint a person to agree upon such deduction, a person may be appointed on his or their behalf by the Minister.

### Check-Weigher.

36. The persons who are employed in a mine and are paid according to the weight of the mineral gotten by them may, at their own cost, appoint a person (in this Act called a "Check-weigher") who is resident in the province and station him at the place appointed for the weighing of such mineral in order to take an account of the weight thereof on behalf of the persons by whom he is so stationed. The check-weigher must be a practical working miner of at least three years' experience and may be appointed by the aforesaid persons employed from time to time in the mine.

(2) A check-weigher shall have every facility afforded him by the owner, agent or manager to take correct account of the weighing for the persons by whom he is so stationed, including facilities for examining and testing the weighing machine and checking the taring of the tubs and boxes when necessary; and also for counting boxes and tallies in order that the number of boxes, weights or quantities credited to each person may be ascertained, and also including a shelter from the weather and a desk or table at which to write, all to be furnished by the owner, agent or manager, and he shall have access to all parts of the mine and bankhead necessary for the fulfillment of his duties.

37. The check-weigher shall not in any way impede or interrupt the working of the mine or interfere with the working of the mine or interfere with the weighing, his duty being to take such account as aforesaid only, and the absence of the check-weigher shall not be a reason for interrupting or delaying such weighing.

38. When a check-weigher has been appointed by the persons employed in a mine who are paid according to the weight of mineral gotten out by them and has acted as such, he may recover from any person for the time being employed at such mine and so paid, his proportion of the check-weigher's wages or recompense, notwithstanding that any of the persons by whom the check-weigher was appointed have left the mine or others have entered the same since the check-weigher's appointment, any rule of law or equity to the contrary notwithstanding.

(2) Whenever a majority of the miners who are employed in a mine to which this Act applies who have engaged a check-weigher shall request in writing of the owner, agent or manager, that the wages of such check-weigher be paid direct from the offices of the mine, the said owner, agent or manager shall withhold from the wages due the miners aforesaid, a pro rata amount sufficient from time to time to meet the wages due the check-weigher, and shall pay the same to him in a like manner as the wages of the said miners are paid.

39. If an owner, agent or manager of a mine desires the removal of a check-weigher on the ground that the check-weigher has impeded or interrupted the working of the mine or improperly interfered with the weighing or has otherwise misconducted himself, he may complain in writing to a judge of the District Court, who, if of the opinion that said complaint should be investigated, shall issue a summons to the said check-weigher to appear at a certain time and place therein named.

(2) Such summons and a copy of the complaint shall be served personally on the check-weigher at least five days before the return of such summons; if, after diligent efforts, it is found impossible to personally serve said check-weigher the said summons may be left with some grown-up person residing in the home or last known place of residence of said check-weigher at least five days before the return of said summons.

(3) In default of appearance of the check-weigher to answer the complaint, service of the said summons on him shall be furnished to the satisfaction of said judge.

(4) Whether the check-weigher appears or not, said judge shall hear the case at the time fixed in the summons and if he deems sufficient ground is shown by the owner, agent or manager to justify the removal of the check-weigher, he shall make a summary order for his removal and the check-weigher shall thereupon be removed without prejudice to the stationing of another check-weigher in his place.

(5) Said judge may in every case make such order as to the costs of the proceedings he thinks just and such costs may be recovered as a judgment in the District Court.

(6) The judgment of said judge shall be final and there shall be no appeal therefrom.

40. In any mine in which the persons employed are paid by mutual agreement otherwise than according to the weight of the mineral gotten by them they may at their own cost, employ one or two practical working miners of at least three years' experience, resident in the province who shall at all times have power and necessary facilities to check the correctness of the manner, method, measure, measurements or quantities according to which persons are paid, on behalf of the persons by whom he is employed; and also for counting boxes and tallies once daily, in order that the number of boxes, weights or quantities credited to such persons may be ascertained.

(2) The provisions of this Act with respect to the powers and duties of a check-weigher and the facilities to be afforded him and for his removal from office shall apply to every person appointed under this section.

41. Any person employed in or about a mine may by order in writing authorize his employer to apply the whole or part of the moneys due to him to the payment of any debt due by such person employed in or about a mine, but any such order shall be effective only for an amount specified therein.

(2) Any such employer may without any order retain out of the moneys due any such person employed in or about a mine any sums due by such person in respect of powder, coal, oil, rent, doctor's fees or other supplies.

#### Returns and Notices.

42. The owner, agent or manager of every mine shall on or before the twenty-first day of January in every year send to the Minister a correct return showing the quantity of coal, stratified iron-stone, shale, clay, or other mineral wrought or mined in such mine for or during the year ending the preceding thirty-first day of December and the average number of persons ordinarily employed in or about such mine, together with such further information as the Minister may demand.

(2) Said returns shall be in such forms as are from time to time prescribed by the Minister who shall from time to time on application furnish forms for the purpose of such returns.

43. When any mine is abandoned, the owner of the same shall send to the Minister within twenty-one days thereafter a correct return showing the quantity of coal, stratified iron-stone, shale, clay or other mineral mined in such mine from the preceding thirty-first day of December to the date of abandonment and the average number of persons ordinarily employed in or about such mine during said period together with such further information as the Minister may demand.

44. In or about any mine whether above or below ground when—

(1) Loss of life occurs to any person, the owner, agent or manager shall immediately thereafter send notice of the death by telegram to the Minister and to the District Inspector and within twenty-four hours thereafter shall make a return to the Minister and to the District Inspector according to schedule A;

(2) Serious personal injury occurs to any person, the owner, agent or manager shall within twenty-four hours thereafter make a return to the Minister and to the District Inspector according to schedule A;

(3) Any personal injury whatever occurs to any person by reason of any explosion of gas or coal-dust or any explosive or any explosion whatever, the owner, agent or manager shall immediately thereafter send notice of such explosion by telegram to the Minister and to the District Inspector and within twenty-four hours thereafter shall make a return to the Minister and to the District Inspector according to schedule A;

(4) Any personal injury occurs to any person by electricity or by overwinding or by or from such other cause or means as the Minister may designate, the owner, agent or manager shall within twenty-four hours thereafter make a return to the Minister and to the District Inspector according to schedule A;

(5) Any personal injury, of which notice has been sent under this section, results in the death of the person injured, subsequent to the sending of such notice, then notice in writing of the death shall be sent to the Minister and to the District Inspector within twenty-four hours after such death has reached the knowledge of the owner, agent or manager;

(6) Loss of life or serious personal injury has immediately resulted from an accident, the place where the accident occurred shall be left in the same condition as it was at the time of the accident for at least three days after sending notice as aforesaid to the Minister and to the District Inspector or until the visit to the place by an Inspector, whichever event happens first, unless compliance with this subsection would tend to increase or continue a danger, or would impede the working of the mine.

45. A record of the amount of ventilation passing in every mine required to be under the control of a manager, shall be sent monthly to the Minister and to the District Inspector on or before the twelfth day of each month.

46. When any change occurs in the name of any mine not exempt from compliance with this section by the Minister, or in the name of the owner, agent or manager of such mine, or in the officers of any incorporated owner of such mine, or when any working is commenced for opening a mine or seam or when any mine is abandoned or the working thereof discontinued, or when the working of a mine is commenced after an abandonment or discontinuance for a period not exceeding two months the owner, agent or manager of such mine shall within two months after such change, commencement, abandonment, discontinuance or recommencement truly and correctly advise the Minister and the District Inspector thereof in writing.

#### Abandoned Mines.

47. Where any mine is abandoned or the working thereof discontinued, at whatever time such abandonment or discontinuance occurs, the owner thereof and every other person interested in the mineral of such mine, shall at all times cause the top of every shaft and every entrance from the surface to be kept securely fenced for the prevention of accidents:

Provided that subject to any contract to the contrary, the owner of the mine shall, as between himself and any other person interested in the minerals of the mine, be liable to carry out the provisions of this section and to pay any costs incurred by any other persons interested in the minerals of the mine in carrying out the provisions of this section.

(2) Nothing in this section shall exempt any person from liability under any other Act or otherwise.

48. When any mine is abandoned, the owner of the mine at the time of its abandonment, shall within three months thereafter forward to the Minister a proper and correct plan of the mine, showing—

(a) The boundaries of the workings of the mine showing the working faces, up to the time of abandonment;

(b) The pillars of coal or other mineral remaining unworked;

(c) The position, direction and extent of every known fault of every seam in the mine and its vertical throw and of every known washout and dyke;

(d) The position of the workings with regard to the surface;

(e) The general direction and rate of dip of the strata;

(f) The depth of every shaft and the depth from the surface to every seam;

(g) A section of every seam in the mine.

(2) Every such plan shall be on a scale of not less than one hundred feet to the inch.

(3) When more than one seam has been worked, a separate plan of each seam shall be forwarded.

(4) Such plans and sections shall be kept by the Minister:

Provided that if an abandoned mine is reopened, the owner shall be entitled to have the plans and sections returned to him on depositing with the Minister copies

thereof or of such portions of same as the Minister may require, certified to be correct by a competent draughtsman.

(5) No person except an Inspector shall be entitled, without the consent of the owner for the time being of a mine or authority from the Minister, to see any plan or section while in his possession but such authority shall not be given unless the Minister is satisfied that the inspection of such plan is necessary in the interests of safety.

(6) When a mine has not been worked for a period of twelve months, it shall be deemed to have been abandoned unless the roadways and workings of same are maintained in an accessible condition; if any dispute shall arise as to whether or not a mine is abandoned under this Act, the same shall be decided by the Minister whose decision shall be final and there shall be no appeal therefrom.

(7) A complaint or information for an offence under this section may be made or laid within six months after abandonment of the mine or within six months after service on the owner aforesaid of a notice to comply with the requirements of this section which ever last happens.

(8) The Supreme Court may, on application by or on behalf of the Minister, make an order requiring any person who has for the time being the custody or possession of any plan or section of an abandoned mine or seam, to produce same to the Minister for the purpose of inspection or copying.

#### Inspection.

49. The Lieutenant-Governor in Council may from time to time appoint any person holding a first class certificate to be Chief Inspector under this Act and assign his duties and fix his remuneration.

(2) The Lieutenant-Governor in Council may also from time to time appoint any person holding a first class certificate to be a District Inspector under this Act for the district specified in such appointment, and may assign his duties and fix his remuneration.

(3) Notice of the appointment of every such inspector shall be published in the Alberta Gazette.

(4) An inspector shall not act as a mining engineer or mine manager within the province.

50. An inspector shall visit every mine in his district as often as his duties permit, or the exigencies of the case require.

(2) Every inspector shall make an annual report of his proceedings during the preceding year to the Minister.

(3) Immediately after completion of each inspection the District Inspector shall cause to be posted in some conspicuous place at or near the mine a copy or duplicate of his report.

51. In addition to any other powers or duties with which he may be vested, an inspector shall have power to—

(1) Make such examination and inquiry as is necessary to ascertain whether the provisions of this Act relating to matters in or about any mine are complied with;

(2) Enter, inspect and examine any mine or any part thereof at all times by day or night;

(3) Examine into and make inquiry respecting the state and condition of any mine or any part thereof and the ventilation of the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine or any mine contiguous thereto;

(4) Exercise any such powers as are necessary for carrying this Act into effect.

52. No person shall obstruct an inspector in the execution of his duties under this Act and no owner, agent or manager of a mine shall refuse or neglect to furnish to an inspector the means necessary for making an entry, inspection, examination or inquiry under this Act in relation to any mine.

53. In every case which is not expressly provided against in this Act, if a District Inspector finds any mine or any part thereof or any matter, thing or practice in or connected with any mine to be dangerous or defective so as in his opinion to threaten or tend to the bodily injury of any person, he shall forthwith give notice in writing thereof to the owner, agent or manager of such mine and shall state in such notice the particulars in which he considers such mine or any part thereof or any matter, thing or practice to be dangerous or defective and require the same to be remedied; if the same cannot be remedied he may require the men to be withdrawn from the mine or part thereof and unless the same is forthwith remedied or the men withdrawn he shall report the same to the Chief Inspector.

(2) If the owner, agent or manager of the mine objects to remedy the matter complained of or to withdraw the men, he shall within ten days after the receipt of such notice from the District Inspector forward his objections in writing, stating the grounds thereof to the Minister who may within ten days after receipt thereof, forward same by registered mail to the Chief Justice of Alberta and thereupon the matter including the costs in connection therewith shall be decided by arbitration by the said Chief

Justice and two other arbitrators, one of whom shall be appointed by the Chief Inspector and the other by such owner, agent or manager and the award of the said Chief Justice with one of the other arbitrators shall be final; a copy of the award shall be sent by registered mail to the persons affected thereby.

(3) Five days' notice of the time and place at which the arbitrators will hear such matters shall be given to the parties interested.

(4) When no objection is forwarded as aforesaid by the owner, agent or manager, he shall comply with the terms of the notice within ten days after the expiration of the time for objection.

(5) When there has been an arbitration the owner, agent or manager shall forthwith comply with the terms of the award made thereunder.

(6) No person shall be precluded by any agreement from doing such acts as are necessary to comply with the provisions of this section or be liable under any contract to any penalty or forfeiture for doing such acts.

54. Where it appears to the Minister that a formal investigation of any accident in any mine or any matter connected with the working of any mine is expedient, the Minister may direct an inspector to hold such investigation and with respect to same, the following provisions shall apply:

(2) The Minister may appoint any person or persons possessing legal or special knowledge to act with the inspector in holding the investigation.

(3) The Inspector shall make said investigation in such manner and under such conditions as he thinks most effectual.

(4) In addition to his other powers the Inspector shall for the purpose aforesaid have

(a) Power to enter and inspect any mine building or place, the entry or inspection of which appears to him expedient;

(b) Power by summons signed by himself to require the attendance of any person and to require of such person such answers or returns to inquiries as he thinks fit;

(c) Power by such summons to require the production of any book, paper or document which he thinks necessary upon such investigation;

(d) Power to administer the oath.

(5) Any person attending before an inspector in obedience to any such summons shall be allowed such fees as are allowed to a witness attending on a subpoena before the Supreme Court.

(6) Every person served with a summons under this section, and who has been tendered the proper witness fees, shall forthwith obey and comply with the terms of the said summons.

(7) The Inspector shall make a report upon such investigation, which the Minister may cause to be made public at such time and in such manner as he thinks fit.

(8) Any expenses incurred in connection with such investigation shall be paid out of the general revenue fund of the province by Order in Council.

#### Plans.

55. The owner, agent or manager of every mine shall keep in the office at the mine a correct plan of the mine or copy thereof showing the workings of the mine on a scale of not less than one hundred feet to the inch or on the same scale as the plan then used at the mine and showing the workings up to date not more than three months previous and showing the position of the entrances to the mine with regard to a section post on the surface.

(2) Said plan or copy shall also show the general direction and rate of dip of the strata and the depth of every shaft.

(3) The owner, agent or manager of every mine shall post in some conspicuous place at the mine a plan showing the principal ways of ingress and egress to and from the various outlets with the travelling roads leading thereto.

(4) The owner, agent or manager of every mine shall produce at the mine to an inspector the plan of the workings thereof and shall, if requested by him mark on such plan the progress of the workings of the mine up to the time of such production and shall allow him to examine the same and shall furnish to the Chief Inspector for his information a correct copy of such plan when requested by him.

(5) The Chief Inspector may in addition by notice in writing (whether a penalty for such offence has been inflicted or not) require the owner, agent or manager within thirty days thereafter to have made a correct plan as prescribed by this section.

#### Coroner's Inquests.

56. When an inquest is to be held on the body of any person whose death may have been caused by an explosion or accident of which notice is required by this Act to be given to the Minister or to the District Inspector, the coroner shall immediately notify the District Inspector of his intention to hold such inquest and in the absence, non-

arrival or non-attendance of an inspector, the coroner shall adjourn such inquest whenever practicable to enable an inspector or some other properly qualified person appointed by the Minister to be present at the inquest.

(2) The coroner before such adjournment may take evidence to identify the body and may order the interment thereof.

(3) The coroner at least four days before holding the adjourned inquest shall send to the Minister and to the District Inspector notice in writing of the time and place of holding such adjourned inquest.

(4) The inspector or such other person appointed by the Minister and a person appointed by the workmen of the mine and a person appointed by the owner, agent or manager of the mine at which the accident occurred shall be at liberty at any such inquest to examine any witnesses.

(5) Where evidence is given at an inquest, of any neglect or default as having caused or contributed to the explosion or accident, the coroner shall forthwith send to the District Inspector notice in writing of such neglect or default.

(6) No person having a personal interest in, or in the management of the mine in which the explosion or accident occurred, or any official of any workman's or owner's association, or any relative of the deceased person upon whose body the inquest is to be held shall serve on the jury expanded for such inquest or act as coroner thereat.

(7) If in the opinion of the inspector it will lead to a more thorough investigation and will be more conducive to the ends of justice he may require the coroner to summon as jurymen not more than three workmen employed at any other mine than that at which the accident occurred and such workmen shall form part of the jury sworn for such inquest.

#### General Provisions.

57. The provisions of sections 58 to 91 inclusive shall be observed so far as is reasonably practicable in or about every mine.

58. An adequate amount of ventilation shall be constantly produced in every mine to dilute and render harmless noxious gases to such an extent that the working places of the shafts, levels, stables and workings of the mine and the travelling roads to and from such working places shall be in a fit state for working and passing therein.

(2) An adequate amount of ventilation shall mean not less than two hundred cubic feet of pure air per minute for each person, horse and mule employed in the mine and as much more as the District Inspector may direct.

(3) Every mine shall be divided into districts or splits of not more than seventy men in each district and each district shall be supplied with a separate current of fresh air.

(4) All intake air shall travel free from all stagnant water, stables and old workings.

(5) On all main roads where a door is required the District Inspector may order that two doors shall be placed in order that while one is open, the other shall remain closed.

(6) The amount of ventilation passing in every mine shall be measured at least once every week by the overman or his assistant and the same shall be recorded in a book kept at the mine for that purpose.

59. In every mine in which inflammable gas has been found within the preceding twelve months, an examiner appointed for that purpose, shall inspect with a locked safety lamp that part of the mine being or intended to be worked and the roadways leading thereto within four hours before the time of each shift commencing work and if inflammable gas has been found within the preceding three months, then within three hours before the time of commencing work and he shall make a true report to the manager or overman at the time in charge of the mine, of the condition thereof as far as safety and ventilation is concerned; every such report shall be recorded without delay in a book which shall be kept at the mine for that purpose and shall be signed by the person making the inspection and a copy of such report shall be posted immediately in a conspicuous place at the mine.

(2) No workman shall go to work in such part until said part and the roadways leading thereto are reported to be safe.

(3) For the purpose of this section two or more shifts succeeding one another so that work is carried on without any interval, are to be deemed to be one shift and it shall not be considered an interval if the times fixed for a shift of workmen to return from work coincide with the times fixed for the oncoming shift to go to work in accordance with this Act.

(4) A similar inspection of all parts of the mine in which workmen are to work or pass during that shift shall be made at least once during each eight-hour shift.

(5) After dangerous gas has been found in any mine a barometer and thermometer shall be placed above ground in a conspicuous position near the entrance to the mine and the readings shall be taken every day before the commencement of inspection and a record of such readings made in a book kept at the mine for that purpose and it shall be signed by the person or persons making said inspection.



60. In every mine in which inflammable gas has not been found within the preceding twelve months, a competent person or persons appointed for that purpose shall once in every twenty-four hours within four hours before the time of starting work inspect that part of the mine being or intended to be worked and the roadways leading thereto, and shall make a true report of the conditions thereof as far as safety and ventilation is concerned.

(2) No workman shall go to work in such part until the same and the roadways leading thereto are reported to be safe; every such report shall be recorded without delay in a book which shall be kept at the mine for that purpose and the same shall be signed by the person making the inspection and a copy of such report shall be posted immediately in a conspicuous place at the mine.

61. In every mine, all entrances to any place therein not in actual course of working and extension, shall be properly fenced around the whole width of such entrance so as to prevent persons inadvertently entering the same.

62. One or more stations shall be appointed at the entrance to a mine or to the different parts thereof as the case requires and no workman shall pass beyond such station until the mine or part of the mine beyond the same has been inspected and reported to be safe.

63. If at any time it is found by the person for the time being in charge of the mine or any part thereof that by reason of noxious gases prevailing in such mine or such part thereof, or from any cause whatever the mine or the said part is dangerous, every workman shall be withdrawn from the mine or such part thereof so found to be dangerous and a competent person who shall be appointed for that purpose shall inspect the mine or such part thereof so found dangerous and if the danger arises from inflammable gas he shall inspect the mine with a locked safety lamp and in every case shall make a true report of the condition of the mine or part thereof and every such report shall be recorded without delay in a book which shall be kept at the mine for that purpose and shall be signed by the person making said inspection.

(2) Except when necessary for inquiring into the cause of danger or for the removal thereof or for exploration, no person shall be readmitted to the mine or such part thereof so found dangerous until the same is subsequently stated in said report not to be dangerous.

64. In every working approaching any place in a mine where there is likely to be an accumulation of inflammable gas or in any place in a mine in which there is likely to be any such quantity of inflammable gas as to render the use of naked lights dangerous, no lamp or light other than a locked safety lamp shall be allowed or used.

(2) When safety lamps are so required to be used, a person holding a certificate under this Act who shall be appointed for that purpose shall inspect every such lamp immediately before it is taken into the workings, to ascertain if it is secure and securely locked and no such safety lamp shall be used until it has been examined and found secure and securely locked and the same shall not be unlocked without authority from the owner, agent or manager and in the said part of the mine, no person shall, without authority from the owner, agent or manager have in his possession any key or contrivance for opening the lock of such safety lamp.

(3) In any mine in which safety lamps are required to be used no person shall carry or have in his possession any lucifer match or apparatus of any kind for striking a light or any pipe for smoking tobacco, or any tobacco for smoking in any form.

(4) Nothing in this section shall be construed to prevent the use of a safety lamp provided with a relighting apparatus within the tube thereof of a pattern approved and permitted by the Chief Inspector, nor to prevent the use of any shot-lighter, electrical firer or other appliance for such purpose of a pattern approved and permitted by the Chief Inspector.

(5) For the purpose of ascertaining whether any person is contravening any of the provisions of subsections (2) and (3) hereof, the owner, agent or manager may appoint one or more persons to make such inspection as he deems necessary.

(6) When safety lamps are used in any part of a mine no naked lights shall be used in any other part of the mine situated between the place where said safety lamps are so used and the return airway.

(7) When more than forty safety lamps are used at any one time in a mine, one or more competent persons shall be appointed by the owner, agent or manager to see that such lamps are properly cleaned, put together and in good order before being given out to the workmen.

65. No explosive shall be stored in any mine nor shall it be taken into any mine except in a secure case or canister containing not more than five pounds.

(2) There shall not be at any one time in any one place in a mine more than one case or canister; but for the driving of rock tunnels, the Chief Inspector may grant permission in writing for a sufficient amount of explosive to be taken into the mine by one or more persons in secure cases or canisters containing not more than twenty-five pounds in each such case or canister.



(3) In the process of charging or stemming for blasting, a person shall not use or have in his possession any iron or steel to be used as a pricker, charger, tamping rod, scraper, or stemmer and nothing but clay or other noninflammable substance or material shall be used for stemming and such clay or other non-inflammable substance or material shall be provided by the owner of the mine.

(4) No explosive shall be forcibly pressed into a hole of insufficient size and when a hole has been charged the explosive shall not be unstemmed or unrammed and no hole shall be bored for a charge at a distance of less than twelve inches from any hole where a charge has missed fire.

(5) Every charge of explosive where possible shall be placed in a properly drilled shot-hole and shall be sufficiently stemmed.

(6) Only one class, grade or quality of explosive shall be used in any one shot.

(7) In any place, in which the use of a locked safety lamp is for the time being required under this Act or in any place which is dry and dusty, no shot shall be fired except by a shot-lighter appointed for the purpose and he shall immediately before charging any shot-hole, examine same and shall see that the coal is well prepared, the shot properly placed and the bore-hole well cleaned; he shall examine the character of explosive and shall regulate the quantity of such explosive to be used in such hole, and such hole shall be loaded according to his instructions; he shall examine all places contiguous thereto within a radius of sixty feet and shall not fire the shot unless he finds it safe to do so and the cables shall not be coupled up nor the shot fired except by him; the explosive shall not be fired except by some form of electrical firer or other means approved by the Chief Inspector.

(8) After a shot has been fired, the shot-lighter shall inspect the place and the workmen shall not resume work in such place until it has been so inspected and pronounced safe by the shot-lighter.

(9) Not more than one shot shall be fired at any one time in any working face in coal unless such shots are fired simultaneously by electricity.

(10) Detonators shall not be used in any mine nor taken therein except under the following conditions—

(a) Detonators shall be under the control of the owner, agent or manager of the mine or some person or persons appointed in writing by him for that purpose and they shall be given only to shot-lighters or other persons authorized by the owner, agent or manager in writing:

Provided, however, that where an electrical firer is used, the workmen may carry their own supply of detonators, but a shot-lighter shall be the only person in the mine who shall have in his possession or use, an electrical firer;

(b) All detonators given or issued under this subsection shall, until they are about to be used be kept in a secure case or box separate from any other explosive.

(11) No shot shall be fired in any place in which at the last inspection inflammable gas has been found—

(a) Unless the person appointed under subsection (7) hereof has examined the place where gas has been so reported to be present, and has found that such gas has been cleared away, and that there is not at or near such place, sufficient gas issuing or accumulated to render it unsafe to fire the shot; or

(12) No shot shall be fired in any place which is dry and dusty except one of the following conditions is observed, namely:

(a) Unless the place where the shot is to be fired and all contiguous accessible places within a radius of sixty feet therefrom including roof, floor and sides are at the time of firing in a wet state from thorough watering or other treatment equivalent to watering.

(13) Any mine which is divided into districts in such a manner that each district has an independent intake and return airway from the main air-course, for the purpose of this section, each of such districts shall be considered a separate mine.

(14) No explosive shall be thawed in any mine underground and when it is necessary to thaw same at any mine, a proper thawing apparatus on the surface shall be provided by the owner of the mine.

66. When any working has approached within one hundred and twenty feet of a place which is likely to contain a dangerous accumulation of water, the working approaching such place shall not exceed eight feet in width or height and there shall be constantly kept at a sufficient distance not being less than fifteen feet in advance at least one bore-hole near the centre of the working face and sufficient flank bore-holes on each side.

67. Every working shaft used for the purpose of drawing minerals or for the lowering or raising of persons, if of a greater depth than one hundred and fifty feet and not exempt in writing by the Chief Inspector, shall be provided with guides and some proper means of communicating distinct and definite signals from—

(a) The surface to the bottom of the shaft;

(b) The bottom of the shaft to the surface;

- (c) Every entrance for the time being in use off the shaft to the surface;
- (d) Every entrance for the time being in use off the shaft to the bottom of the shaft.

68. Every underground plane on which persons travel which is self-acting or worked by an engine, windlass or gin shall be provided, if exceeding ninety feet in length with some proper means of communicating distinct and definite signals between the stopping places and the ends of the plane and every back or counter balance used for raising or lowering coal or other minerals if exceeding ninety feet in length, unless exempt in writing by the Chief Inspector shall be provided with some proper means of communicating distinct and definite signals between the lower end and between the entrance of every working place thereon for the time being in work and the upper end thereof.

69. Every underground plane on which persons travel which is self-acting or worked by an engine, windlass or gin, if exceeding sixty feet in length shall be provided with sufficient man-holes or places of refuge at intervals of not more than sixty feet.

(2) Every road on which persons travel underground where the produce of the mine in transit exceeds ten tons in any one hour over any part thereof, and where the load is drawn by a horse or other animal, shall where there is not standing room of at least two feet, be provided with manholes or places of refuge at intervals of not more than seventy-five feet.

(3) Where the load is drawn by machinery or other mechanical power at a speed exceeding two miles per hour and there is not standing room of at least two feet, there shall at intervals of not more than sixty feet be provided, man-holes, or places of refuge.

(4) Every manhole or place of refuge shall be at least three feet in depth between the sides of the cars running on the plane or road and the back of the man-hole, three feet in width and five feet in height or the height of the seam but in any case not less than four feet.

(5) Every man-hole and place of refuge shall be constantly kept clear and frequently whitewashed and no person shall place anything in a man-hole or place of refuge so as to prevent access thereto.

(6) Whenever in the opinion of the Chief Inspector the provisions of this section are not sufficient for the safety of the persons travelling thereon, he may require the owner, agent or manager of such mine to provide a separate travelling road.

70. The top of every shaft which for the time being is out of use or used only as an airshaft shall be kept securely fenced for the prevention of accidents.

(2) The top and all entrances between the top and bottom of every working, ventilating or pumping shaft shall be properly fenced for the prevention of accidents but this shall not prevent the temporary removal of the fence to make repairs or for other operations if proper precautions for safety are used in the meantime.

71. Where one portion of a shaft is used for the lowering or raising of persons by ladders or otherwise, and another portion is used for raising the material gotten in the mine, no persons shall travel or be permitted to travel in the shaft when the same is in operation, unless the first mentioned portion is either cased or otherwise securely fenced from the last mentioned portion.

72. Where the natural strata is not safe, every working or pumping shaft shall be securely cased, lined or otherwise made secure.

73. The roof and sides of every travelling road or working place shall be made secure and no person except those appointed for the purpose of exploring or repairing shall travel or work in any such travelling road or working place which is not so made secure.

74. A sufficient supply of suitable timber shall be constantly kept in each working place as near the working face as is practicable and in no case shall it be further away than the nearest cross-cut to the working face, or other convenient place in the vicinity thereof.

75. All coal during the operation of holeing or undercutting by hand shall be supported by coal or wooden props.

76. Every cage or tub employed in lowering or raising persons in any working shaft shall have a sufficient and proper covering overhead but this shall not apply where the cage or tub is worked by a windlass nor where the persons are employed at work in the shaft nor where a written exemption is given by the Chief Inspector.

77. No single link chain shall be used for lowering or raising persons in any working shaft or place except for the short coupling chain attached to the cage or load.

78. The drum of every machine used for lowering or raising persons shall have attached or fastened thereto proper flanges or horns and if the drum is conical in shape it shall have such other appliances as are sufficient to prevent the rope from slipping.

79. Every machine worked by steam, water or other mechanical power used for lowering or raising persons shall have attached thereto an adequate brake and in addition to any mark on the rope it shall also have a proper indicator showing the position of the cage or load at all times.

80. Every fly-wheel and all exposed and dangerous parts of the machinery used in or about any mine shall be kept securely fenced for the prevention of accidents.

81. Every steam boiler shall be provided with a proper steam gauge, water gauge and safety valve.

82. A competent person or persons appointed for the purpose shall at least once in every twenty-four hours inspect the external parts of all machinery, headgear, ropes and chains of the mine which are in actual use, and shall without delay make true reports of such inspections in a book which shall be kept at the mine for that purpose, a copy or duplicate of which shall be posted at the mine and such reports shall be signed by the person making the inspections.

83. A competent person appointed for the purpose shall at least once in every week inspect the shafts and the guides or conductors therein by which persons are lowered or raised and shall without delay make true reports of such inspection in a book which shall be kept at the mine for that purpose, a copy or duplicate of which shall be posted at the mine and such reports shall be signed by the person making the inspections.

84. A ladder used permanently for the ingress or egress to or from a mine shall not be fixed in a vertical or overhanging position, but shall be inclined at the most convenient angle which the space in which the ladder is fixed allows and every such ladder shall have substantial platforms at intervals of not more than forty feet.

85. Properly constructed ambulances or stretchers with splints and bandages shall be kept at every mine ready for immediate use in case of accident.

86. No person shall wilfully damage or without proper authority remove or render useless any fence, fencing, casing, lining, guides, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam gauge, water gauge, safety valve or other appliance or thing provided at the mine.

87. If more than twenty persons are employed in any mine below ground, sufficient accommodation shall be provided for enabling the persons employed in the mine to conveniently wash themselves and dry and change their clothes, and such accommodation shall not be in the engine house or boiler house.

88. No person shall, without lawful authority, enter any mine, building or premises without first having obtained permission from the owner, agent or manager, overman or outside foreman.

89. For the purpose of complying with the provisions of this Act, every person shall observe such careful directions with respect to working as are given to him.

90. The workmen employed in a mine may, at their own cost, appoint any two persons, resident in the province and who are not mining engineers, and who are practical working miners and have had not less than five years' experience of underground work, to inspect the mine, and the persons so appointed shall be allowed once at least in every month, accompanied, if the owner, agent or manager of the mine thinks fit, by himself, or one or more officials of the mine, to go to every part of the mine, and to inspect the shafts, roads, levels, workings, airways, ventilating apparatus, old workings, and machinery, and shall, where an accident has occurred in a mine of which notice is required under this Act to be given be allowed to go, accompanied as aforesaid to the place where the accident occurred, and to make such inspection as may be necessary for ascertaining the cause of the accident, subject, however, to the provisions of this Act requiring the place where an accident has occurred to be left as it was immediately after the accident.

(2) Every facility shall be afforded by the owner, agent and manager, and all persons in the mine for the purpose of such inspection, and the persons appointed shall, except where the inspection is an inspection for the purpose of ascertaining the cause of an accident, forthwith make and sign a full and accurate report of the result of the inspection in a book to be kept at the mine for the purpose and shall forthwith cause a true copy of the report to be sent to the District Inspector.

91. All books required to be kept by the foregoing general provisions shall be provided by the owner, agent or manager, and the same or a correct copy thereof shall be kept at the office of the mine and an inspector or any person employed in the mine, or any one having the written authority of the Chief Inspector, may, at all reasonable times, inspect and take extracts or copies from such books; but nothing in this Act shall be construed to impose an obligation to keep any book or copy thereof for more than twelve months after same has ceased to be used for entries therein under this Act; and any report by this Act required to be recorded in a book may be partly in print or lithograph and partly in writing.

#### Special Provisions.

92. The provisions of sections 93 to 124 inclusive shall be observed as far as is reasonably practicable in or about every mine.

93. Before commencing work in or about any mine every person shall personally attend at the office and be registered in accordance with the provisions of this Act.

94. Every person shall, at all times, obey the lawful demands or orders of the person under whose charge he may be.

95. No person occupying a position of trust shall delegate his work to another person without the sanction of the person under whose charge he is and no person occupying a position of trust shall absent himself from duty without legitimate cause or without having previously obtained permission from the person under whose charge he is.

96. Where work is carried on continuously for more than one shift, no person having charge of other persons, machinery, signals, or ventilating apparatus shall leave work until relieved, unless authorized by the persons under whose charge he is.

97. No person in or about any mine shall commit an act likely to cause danger to the mine or to any person.

98. Any person receiving personal injury in or about any mine, shall, if able, before leaving the mine, report same to the manager, overman, examiner or outside foreman.

99. When any person becomes aware of any contravention of this Act, he shall as soon as possible report same to the manager, overman, examiner or outside foreman.

100. Intoxicating liquor shall not be taken in or about any mine without the consent of the manager, nor shall any person in a state of intoxication enter or be allowed to remain in or about any mine.

101. No person without proper authority shall interfere with any notice, timber, door, fence, aircourse, brattice, stopping or other appliances, nor shall he leave open any door which he found shut, nor shall he do anything to interfere with the ventilation of the mine, to impede the working thereof or damage the property of the owner.

102. No person shall enter or remain in any place in or about any mine where he is not absolutely required by duty to be.

103. No person shall ride on any car in or about any mine without the permission of the manager.

104. No person with an open light shall enter or remain in any stable and any person who finds an open light in a stable shall at once extinguish it.

(2) Every person shall see that all unnecessary lights under his charge are extinguished.

105. Every person shall use great care and precaution in handling cars so that no injury will occur.

106. A workman shall use great care and precaution in handling explosives and when making a cartridge he shall not keep his lamp on his head nor have a pipe or cigarette or cigar in his mouth; he shall place his lamp at least four feet away and at a point where the air will carry a spark from him.

107. No person shall take into or allow to remain in any building about any mine any explosive or explosive substance, unless authorized to do so by the owner, agent or manager.

#### Manager.

108. The manager shall take all reasonable means to enforce the provisions of this Act; he shall have supervision and control of the mine and shall be responsible for the appointment of a sufficient number of persons whose duty it shall be to carry out the provisions of this Act and to see that the mine is worked with all reasonable provisions for safety.

#### Overman.

109. The overman shall—

(1) Be subject to the control of the manager and shall direct and supervise all work underground; in the absence of the manager, or at any mine where the manager is not required by this Act, he shall have the same responsibility and be subject to the same liabilities as the manager.

(2) He shall examine all working places in the mine as often as possible particularly with reference to safety and proper working and generally he shall exercise that direction over the workmen and work that will conduce to their safety and the best interests of the mine.

(3) He shall see that all roadways, headings, airways, and breasts are kept as straight as possible and that all pillars and stumps are of uniform and sufficient thickness.

(4) He shall see that all stoppings are properly built and kept in good repair.

(5) Immediately after it has come to his notice, he shall cause all dangerous places to be made secure.

(6) He shall see that all doors are hung in such a manner that they will close of their own accord and he shall see that all doors not in actual use are taken off their hinges and shall not allow any door to be propped or fastened back or opened except for the passage of persons, animals, cars or locomotives.

(7) He shall not allow a trapper while on duty to leave any door under his charge under any pretext whatever.

(8) He shall see that all entries are driven the proper height and width, that all roads are kept properly cleaned and as well drained as possible and in a safe condition for all animals.

(9) He shall see that all horses and mules under his charge are not overworked or unnecessarily whipped or abused by the drivers, and that the stableman properly attends to his duties.

(10) He shall see that no coal or other material is lost by premature or improper drawing of pillars or stumps and that the coal is properly mined.

(11) He shall see that all tools and materials furnished to the workmen are properly used.

(12) He shall examine and initial daily at the mine, all report books in the department under his charge and shall see that all reports are properly recorded therein.

(13) He shall see that all airways and all accessible old workings are inspected once at least in every week and that reports of such inspections are recorded immediately in a book kept at the mine for that purpose, and that the same are signed by the person or persons making said inspections.

#### Examiner.

110. The examiner shall—

(1) Be subject to the orders and control of the overman whose instructions shall not conflict with this Act.

(2) He shall when making his inspection before work commences, chalk his initials and date of inspection at the face of every working place in the district under his charge and shall see that all entrances to any place which may be found unsafe are fenced off at such a distance from the point of danger so as to prevent any person inadvertently approaching same.

(3) He shall inspect at least once in every twenty-four hours all air-ways in the district under his charge and on his becoming aware of anything requiring attention shall report the same to the manager or overman.

(4) He shall keep a careful watch over all working places in the district under his charge and in the event of danger he shall withdraw all persons who may be exposed to such danger and immediately report the same to the manager or overman and shall also make and sign a report of such danger in a book kept at the mine for that purpose.

(5) He shall before commencing his shift read the reports of the last preceding inspection and insert his initials thereto and note if gas or any other dangerous condition has been reported to be present in any part of the district under his charge.

(6) He shall see that the provisions of this Act are strictly observed and shall report any non-observance of the same to the manager or overman immediately after the same comes to his attention.

#### Shot-Lighter.

111. The shot-lighter shall be subject to the control of the overman whose instructions shall not conflict with this Act.

(2) Before firing a shot, the person about to fire the same shall see that all persons are out of reach of danger from the probable effect of such shot in that or any adjoining place and he shall take such precautions as may be necessary to prevent any person inadvertently approaching until the shot is fired.

(3) When electric batteries are used for firing shots and a shot has missed fire, no person shall enter any place where the shot has missed until the battery has been disconnected and permission is given for such entry by the person in charge of the firing.

(4) Where fuse is used for firing shots, no person shall enter any place where a shot has missed without authority or permission from the manager, overman or examiner.

(5) A record of all shots which have missed fire shall be kept in a book provided at the mine for that purpose.

(6) In all places where locked safety lamps are required to be used, the shot-lighter shall not be a contractor nor any person in the employ of a contractor unless permission in writing is first obtained from the Chief Inspector.

(7) Before leaving a place where a shot has missed fire, a warning board or fence shall be erected or fixed across the whole width of said place by the person who attempted to fire same to prevent anyone inadvertently entering said place.

(8) After a shot has been fired, the person who fired same shall, as soon as practicable thereafter, inspect the place and take all necessary steps to ensure safety before work is resumed.

## Lampman.

112. The lampman shall see that every safety lamp given out for use in a mine is thoroughly cleaned and properly put together in safe working order and securely locked, and he shall also see that no safety lamp gauze is used with less than twenty-eight parallel wires to the inch with equal spaces between.

(2) He shall see that all oil, gasoline, naphtha, spirits or other inflammable materials are carefully and properly stored and used and that no greasy waste or other refuse is allowed to accumulate in or about the lamp house.

(3) He shall not allow any person to be in the lamp house except those whose business required them to be there and he shall keep the lamp house neat and clean and all appliances in proper working order.

(4) Whenever the lampman receives any defective or damaged lamp from any person, he shall report same to the manager or overman and he shall keep same in the state in which it was received by him until inspected by the manager or overman.

(5) No one except a person authorized by the manager or overman shall take a safety lamp from the lamp house or give one out for use in the mine.

## Safety Lamps.

113. Every person on receiving a safety lamp shall inspect it to see that it is secure and securely locked.

(2) Every person who has a safety lamp in his possession shall pay frequent attention to same and if oil is spilled on the gauze or glass, if the gauze is punctured so as to make a hole larger than that allowed in an ordinary safety lamp gauze, if the glass is cracked or if said lamp becomes unsafe from fire-damp or from the foregoing or any other causes, he shall at once extinguish the light by drawing the wick within the tube and forthwith take it to the overman, examiner or to the lamp house outside.

(3) No person shall improperly use or damage any safety lamp or blow out or attempt to blow out any flame in any safety lamp.

(4) No person shall place a safety lamp on its bottom unless it is necessary to do so for the safe performance of his work and in all cases it shall be at least two feet from the swing of any tool.

(5) Every person receiving one or more safety lamps before going on shift shall personally return them at the end of the shift to the lamp house.

(6) No person shall without authority have in his possession in any mine, any explosive and in mines where locked safety lamps are required to be used if any explosive remains in the possession of a workman at the end of his shift he shall bring same out of the mine and return it at once to the place of storage provided for that purpose.

(7) Every person authorized to use explosives shall use the greatest precaution in the care and handling of same.

(8) No person shall fire any shot without authority from the manager or overman.

## Underground Work.

114. All persons employed underground shall be subject generally to the control of the manager, overman, examiner and any other person properly appointed.

(2) No person shall walk up or down a hoisting slope without permission from the manager or overman and every person in or about a slope or shaft bottom shall obey the orders of the onsetter or cager.

(3) No person in or about any mine shall improperly use or remove any signal, signal wire or signal apparatus and no person without proper authority shall give any signal.

(4) Before commencing work, every person in charge of a working place shall satisfy himself that the same is in a safe condition to work; he shall also inspect his working place carefully at frequent intervals during his shift and he shall set sufficient timber to safely support the roof and sides of said place; he shall remove or renew same when necessary and shall take down all dangerous or doubtful pieces of loose material; if, however, said person finds it impossible to make said place safe, he shall fence same off and at once report same to the manager, overman or examiner and he shall at no time leave his working place until it is made safe or fenced off.

(5) When any person finds that he has not sufficient timber or other material to make his place safe, he shall immediately withdraw from such place and report same to the manager, overman or examiner.

(6) Any person in charge of a place shall work same according to the directions or orders of the manager, overman or examiner.

(7) When any person discovers any stopping or disarrangement of ventilation, damage to any air-crossing, cloth, door, stopping, brattice or air-pipe, or observes any obstruction in any air-course, weakness in the roof, deficiency of timber weight or creeping of roof in any working place or roadway, accumulation of gas or water or any other danger, he shall immediately give notice to every person exposed to such danger and to the manager, overman or examiner.



(8) When any person finds fire-damp or other noxious gases in dangerous quantities in any mine, he shall immediately report the same to the manager, overman or examiner before leaving the mine and before leaving the mine he shall see that a record of the same is made in a book kept at the mine for that purpose.

#### Stablemen and Drivers.

115. The stablemen shall not allow any animal under his charge to do any work while not in proper condition, and he shall report to the manager or overman any injury received by any animal under his charge.

(2) The stableman shall see that all animals receive proper attention and he shall attend daily or when required by the overman or manager to all animals suffering from any cause or illness; he shall not administer any medicine to any animals except for sore shoulders, cuts, or bruises unless authorized to do so by the manager or overman and shall have all animals harnessed with proper fitting harness and in good condition for their work before allowing them to leave the stable.

(3) Every person in charge of an animal shall take proper care of same; he shall not abuse it or allow any one else to do so and he shall not leave same at any time without securing or fastening it safely from any possible danger.

(4) When any person in charge of an animal finds that it cannot pass along any road without rubbing against the roof, sides or timbering, he shall at once report same to the manager, overman or examiner.

(5) Sufficient and suitable sprags shall be provided and every person shall exercise great care while running or drawing cars and if necessary shall use sufficient sprags to prevent said cars from getting beyond control.

#### Driver Boss.

116. When a driver boss is appointed he shall, inside the mine, have charge of all drivers, chute-loaders, spraggers, trappers and others engaged in hauling coal.

#### Trappers.

117. When a trapper has charge of a door, he shall open same only for the passage of persons, animals, locomotives or cars and he shall instantly close the same when they have passed through; he shall not allow said door to remain open or to be propped or fastened back and he shall not leave same until the work of his shift is finished.

#### Haulage Roads.

118. Any person in charge of any haulage road, plane or incline, or any cars or machinery thereon shall at all times pay strict attention to signals and to any deviation from the regular course of said cars or machinery and when he finds anything defective, he shall forthwith stop the cars and the machinery until the defect is repaired or remedied; he shall also report to the manager, overman or person under whose charge he may be forthwith, any danger, weakness or defect he may find.

(2) Any person whose duty it is to couple any car to any rope or chain or to any other car, shall see that the couplings are secure, properly made, in good order and not twisted.

(3) Stop blocks or some other efficient appliance to prevent cars from accidentally going down, shall be provided and used at the top of all self-acting inclines, slopes and shafts.

(4) Where a drag or other appliance is required to be used by the manager or overman, the person in charge of same shall in all cases attach the drag or other appliance to the cars before hoisting begins.

#### Cagers and Onsetters.

119. The cager or onsetter shall have the general direction of the work at the pit bottom and he shall see that all persons, animals, cars and material are properly caged consistent with safety.

(2) He shall also see that no person is allowed to be raised in or on any cage or trip if the opposite cage or trip contains material of any description nor shall he allow any person to ascend in or on any cage which contains any car; nothing in this subsection shall, however, be taken to mean that a person may not be raised in a cage or trip where material is required to be placed on the opposite cage or trip, for the purpose of acting as a back balance.

Provided such material is securely fixed in such a manner that it cannot move on such cage or trip.

#### Outside Foreman.

120. The outside foreman shall be subject to the control of the manager or person appointed by him, and he shall direct and supervise all operations outside the mine.



(2) He shall see that every person under his charge performs his duty in a manner to insure the greatest possible safety to others and to the property of the owner.

(3) Unless some other person is appointed for the purpose, he shall receive all orders for supplies and shall see that they are properly filled.

(4) He shall see that all explosives and other inflammable materials are handled with the greatest possible care, and at no time shall he allow a naked light to be in the powder magazine.

(5) He shall see that all unnecessary fires are extinguished or properly damped before he leaves the mine at the close of each day.

#### Ventilating Fans.

121. No person shall stop or cause to be stopped or change or cause to be changed the speed of any ventilating fan without first having complied with the provisions of section 9 of The Boilers Act being chapter 9 of the Statutes of Alberta 1911-1912 as amended.

#### Banksmen.

122. The banksman shall have the general direction of the work at the bankhead and he shall see that all persons, animals, cars and materials are properly caged consistent with safety.

(2) He shall also see that no person is allowed to be lowered in or on any cage or trip if the opposite cage or trip contains material of any description nor shall he allow any person to descend on any cage which contains any car; nothing in this subsection shall however, be taken to mean that a person may not be lowered against a cage or trip where material is required to be placed on the opposite cage or trip for the purpose of acting as a back balance:

Provided that such material used for the purpose of a back balance is securely fixed in such manner that it cannot move on such cage or trip.

(3) He shall report to the master mechanic or outside foreman any defect he may notice in the stop-blocks or other appliances.

#### Wash-house.

123. No person shall at any time take explosives, detonators, igniters or any explosive substance of any kind into any wash-house.

(2) Every person shall leave his clothes where directed by the manager or some person appointed by him.

#### Shaft Sinking.

124. The banksman shall in all cases steady the tub, or anything about to be lowered before it leaves the top of the shaft and shall see that all bricks and other small materials are kept below the level of the top of the tub; he shall see that nothing is sticking to the bottom of the tub, and that all tools, gear or timber are properly placed and secured, and in no case shall he permit any material to be filled into a tub hanging over an uncovered shaft.

(2) The banksman shall, in every case see that the tub is lifted by the engine off the landing wagon or other cover and that it is steadied over and into the shaft.

(3) When a landing wagon is used, the banksman shall secure same by a catch when "off" and "on"; when landing he shall not signal to lower the tub on to the wagon until the latter is in position over the shaft and properly secured, and when work is ceased the landing wagon shall be left so that it will not impede the ventilation nor leave the shaft unfenced.

(4) The banksman shall not leave the top of the shaft while men are ascending and descending same.

(5) The shift boss shall be under the control of the manager or overman and he shall have full charge of the sinking operations; he shall at least once in every shift or more frequently if necessary inspect the shaft and remove any loose stones and if anything is found to be unsafe he shall stop sinking until everything is made secure, he shall immediately after such inspection make and sign a true report of the condition of the shaft in a book provided for that purpose.

(6) The shift boss shall see that the tub at the bottom of the shaft is so filled that the contents, if consisting of brick or other small materials, shall be below the level of the top of the tub; he shall see that stones are properly packed therein and that nothing is sticking to the bottom thereof; he shall also see that all tools, gear and timber are properly placed and secured and that the tubs are in a line with the rope and properly steadied before being sent away.

(7) Every shot shall be fired under the supervision of the shift boss only and he shall see that the same is fired by an electric battery from the surface and that such battery is not coupled to the cables until every person is out of the shaft.

(8) After every cessation of work, whether caused by the withdrawal of the workmen for shot-firing or other purposes, the shift boss, accompanied at least by one other person shall descend and inspect the shaft and he shall satisfy himself that the same is safe before allowing any other person to descend; after firing any shot, when inflammable gas is likely to be present such inspection shall be made with a locked safety lamp and after an intermission of four hours in working, the shaft shall not be entered until a safety lamp has been lowered and it has been found that no gas is present.

(9) The shift boss shall descend in the first tub and shall ascend in the last tub in each shift.

(10) When walling or bricking is being done, the shift boss shall see that the shaft under the bricking scaffold is properly ventilated, that the scaffold is not over-weighted with material, and that the brickwork is of the strength specified by the manager.

(11) Explosives shall not be taken into or kept in a shaft until immediately before they are required to be used.

(12) When directed by the manager or overman, no lamp but a locked safety lamp shall be used in the shaft.

(13) When ascending or descending by a tub, every person shall keep within same and no person shall ascend or descend on a loaded tub.

#### Orders Not Provided For.

125. The owner, agent or manager or a person appointed by him may give any orders or instructions not expressly provided for by this Act.

Provided that such orders or instructions do not in any way conflict with the provisions of this Act.

126. The owner, agent or manager shall cause a copy of this Act with the name of the mine and the name and address of the Chief Inspector and of the District Inspector, and the name of the owner or agent, and of the manager appended thereto, to be posted up in some conspicuous place at or near the mine, where the same may be conveniently read or seen by any person employed; and so often as the same becomes defaced, obliterated or destroyed shall cause them to be renewed or replaced with all reasonable despatch.

(2) Said copy of this Act shall be kept separate from any regulations which refer to any contract made between the owner, agent or manager and any person or persons employed in or about a mine.

(3) If an owner, agent or manager has taken all reasonable means in his power to comply with this section, he shall not be guilty of an offence against same.

#### Notices: How to be Sent.

127. All notices and documents required by this Act shall be in writing, print or lithograph.

(2) All notices and documents required by this Act to be served or sent to the Minister or Chief Inspector may be either delivered personally or sent addressed to him to the Department of Public Works at the seat of government by prepaid registered letter, and all notices and documents required by this Act to be served or sent to the District Inspector may be either delivered personally or sent by prepaid registered letter addressed to his last-known place of abode.

(3) All notices and documents required by this Act to be sent by the Minister or an inspector, may be either served personally upon the parties affected thereby or sent by prepaid registered letter to their last-known place of abode.

(4) Said notices if served or sent by post shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such service or sending, it shall be sufficient to prove that the letter containing the notice was properly addressed, registered and put into the post.

#### Penalties.

128. Every owner, agent, manager, overman or examiner who violates any of the provisions of this Act shall on summary conviction be liable to a penalty not exceeding one hundred dollars and costs.

(2) Every other person who violates any of the provisions of this Act shall on summary conviction be liable to a penalty not exceeding fifty dollars and costs.

129. When any person is found guilty of an offence against this Act which might reasonably have been expected to cause a serious accident or to result in personal injury, the tribunal adjudicating thereon shall be entitled to impose imprisonment with hard labour for a period not exceeding three months in addition to any other penalty imposed if it is shown that the offence was committed either wilfully or so negligently as to amount to a wilful violation of this Act.

Prosecutions.

130. All penalties imposed by this Act shall, when collected form part of the general revenue fund of the province.

131. The provisions of part XV of chapter 146 of the statutes of Canada (The Criminal Code) in reference to summary convictions shall be applicable to all prosecutions under this Act.

132. The penalties imposed for a breach of any of the provisions of this Act shall be in addition to any penalty imposed by any other law, Statute or Ordinance for the same offence or matter.

133. No prosecution shall be instituted for a violation against this Act, except—

- (1) By the Chief Inspector; or
- (2) With the consent in writing of the Minister; or
- (3) By some person appointed by the Minister.

134. In any prosecution or other proceedings for an offence against this Act, an alleged offender shall be discharged if he proves to the satisfaction of the tribunal before which the same is tried that he took all reasonable means to prevent the commission of such offence.

135. Any complaint or suit made or brought in pursuance of this Act shall be made or brought within six months from the time when the matter of such complaint or suit came to the knowledge of the prosecutor or complainant.

Information for Minister.

136. The owner, agent or manager of every mine shall at any time when required by the Minister, send to him such information and facts relating to his mine as asked.

137. The Minister may publish the aggregate results of any returns made to him.

Regulations and Forms.

138. The Lieutenant-Governor in Council may from time to time:

- (1) Make such further or additional regulations, rules or orders as may be deemed necessary and proper in the interests of safety;
- (2) Make and prescribe such forms and regulations as may be deemed necessary for the purpose of carrying out the provisions of this Act.

Repeal.

139. Chapter 25 of the Statutes of Alberta, 1906, intituled The Coal Mines Act, all amendments thereto; all rules, orders and regulations made thereunder, and chapter 17 of the Statutes of Alberta, 1908, being "An Act to Amend the Coal Mines Act for the Purpose of Limiting Hours of Work Below Ground," and amendments thereto, are hereby repealed.

Provided, however, that nothing in this repeal shall affect any certificate of competency issued by the Commissioner of Public Works for the Northwest Territories or by the Minister or Provincial Inspector previous to the coming into force of this Act, but every such certificate shall have effect as if made or granted under this Act, and the register of holders of certificates, and other registers which at the commencement of this Act are kept in pursuance of the Acts hereby repealed shall be deemed to be registers or parts of registers kept in pursuance of this Act.

140. Nothing in this Act shall be construed to mean that any work done or performed according to any law in force at the time of the coming into force of this Act shall by reason of the passing of this Act be required to be done over again.

Commencement of Act.

141. This Act shall, except as otherwise provided, come into operation on the first day of August, nineteen hundred and thirteen.

SCHEDULE A.

Form of Notice of Explosion or Accident to be sent to Minister of Public Works and District Inspector of Mines.

Name and postal address of owner. . . . .  
Name of mine. . . . .  
Date. . . . .

To the Minister of Public Works, Edmonton, Alberta, or to the District Inspector (if to the District Inspector, insert the last known place of abode of such Inspector)

In pursuance of the Mines Act, I beg to give you notice that an explosion has occurred at this mine, of which the following are the particulars:

Name of person(s) killed.....  
 Name of person(s) injured.....  
 Occupation.....  
 Age.....  
 Date of accident.....  
 Time of accident.....  
 Place of accident.....  
 Date of first employment.....  
 Nature of injuries.....  
 Causes with full description of accident.....

I am, sir,

Your obedient servant,

Owner, Agent or Manager.

Other remarks.....

### Co-operative Associations.

Chapter 12.—4. Any seven or more persons who desire to associate themselves together as an incorporated association under this Act, for the purpose of carrying on any labour, or fulfilling the requirements of any contract or undertaking by or on behalf of labourers, or for the purpose of conducting and carrying on any co-operative store or business, whether wholesale or retail, may, in the presence of a witness, sign in duplicate and cause to be filed in the office of the registrar a memorandum of association in writing (to which shall be attached an affidavit verifying the signatures) in the form mentioned in schedule A to this Act or to the same effect, together with a copy of the rules or by-laws agreed upon for the regulation, government and management of the association, signed by such persons respectively.

### Protection of Employees on Buildings and Excavations.

Chapter 14.—1. This Act may be cited as The Building Trades Protection Act.

2. In this Act—

(a) "Building" shall include any structure roofed in or intended to be roofed in, and capable when completed of affording protection and shelter;

(b) "Excavation" shall mean any trench in the ground at a depth of more than four feet;

(c) "Inspector" shall mean an inspector appointed by a municipality or by the Lieutenant-Governor in Council for the purpose of enforcing the provisions of this Act.

(d) "Municipality" means and includes any incorporated municipality, whether a city, town, village or rural municipality.

3. Every municipality shall appoint an inspector or inspectors to enforce this Act within the limits of the municipality.

(2) The Lieutenant-Governor in Council may appoint an inspector or inspectors to enforce this Act in territory outside of municipalities.

4. Where any inspector appointed under this Act finds that any provision of this Act is being violated in the case of any building or excavation he may give such orders in writing as may, in his opinion, be required to secure due compliance with such provision, and upon any such order being made and until the same is carried out the work upon that part of the building or excavation in which the default occurs shall be suspended.

(2) Every person to whom the order of the inspector is directed who disobeys or knowingly permits any person under his direction and control to disobey any such order or to carry on work in violation of subsection (1) hereof before the order is complied with shall be guilty of an offence and liable on summary conviction to payment of a penalty not exceeding \$50 for every day upon which such default occurs.

5. In the erection, alteration, repair, improvement or demolition of any building, no scaffolding, hoists, stays, ladders, flooring or other mechanical and temporary con-

trivances shall be used which are unsafe, unsuitable or improper, or which are not so constructed, protected, placed and operated as to afford reasonable safety from accident to persons employed or engaged upon the building or excavation.

6. The following regulations shall be complied with in the erection, alteration, repair, improvement or demolition of every building.

(1) The floors of all scaffolding suspended from overhead shall be at least two and one-half feet wide and the floors of all standing scaffolding shall be at least four feet wide; all such scaffolding shall, unless the same is dispensed with by written authority of the inspector, have a railing or guard not less than three nor more than four feet from the flooring on the outside of the scaffolding for the protection of persons working thereon.

(2) Where scaffolding or staging is "swung" or suspended from an overhead support it shall be so secured as to prevent its swaying to and fro.

(3) Where poles are used in scaffolding the poles shall be securely lashed at every point of contact, and where square timber is used in scaffolding, the same shall be securely spiked or bolted at every point of contact.

(4) No lumber or timber shall be hoisted in a single sling.

(5) Where hoists are used for raising materials for use in buildings, the shafts or openings shall be protected at each floor by a barrier not less than three feet nor more than four feet from the level of the floor and the barrier shall be placed not less than two feet from the edge of the shaft or opening in which the hoist is operated; provided that upon the level or floor in actual use by such hoist such barrier shall not be placed across the openings used for entrance or exits to or from such hoists.

(6) All ladders shall extend at least four feet above any scaffold, staging or floor.

7. Where the plans and specifications require the floors to be arched between the beams thereof, or where the floors or filling in between the floors are of fireproof material the flooring or filling shall be completed as the building or excavation progresses to not less than within three storeys below that on which the iron work is being erected.

(2) Where the plans and specifications do not require filling in between the beams of floors with fireproof material or brick work, the contractor for the carpenter work, in the course of construction, shall lay the under flooring of the building on each storey as the building or excavation progresses to not less than within two storeys below the one to which the building has been erected.

(3) Where double floors are not to be used, such contractor shall keep planked over, with planks properly secured, the floor two storeys below where the work is being performed.

(4) If the floor beams are of iron or steel, the contractor for the iron or steel work of a building or excavation in course of construction, or the owner of such a building or excavation shall thoroughly plank over the entire tier of iron or steel beams on which the structural iron or steel work is being erected, except such spaces as may be reasonably required for the proper construction of such iron or steel work and for the raising or lowering of materials to be used in the construction of such building and such spaces as may be designed by the plans and specifications for stairways and elevator shafts.

8. In the case of what are known as skeleton steel frame buildings, compliance with the following regulations shall be sufficient, and it shall not be necessary to comply with the requirements of section 7.

(1) As soon as the steel frame of a building is erected to the first column splice above the first floor level, a flooring of two-inch planking shall be laid over floor beams on the floor immediately below the first column splice, making a temporary floor over that part of the area of the building or excavation inside columns at that level, except in places where it is necessary to have openings for the passage of material for building above that point. When erection has reached a point level with the next column splice the planking used as a temporary floor at first column splice shall be removed and placed as before at second splice, and so on to the top of the building.

(2) A double flooring of two-inch planking shall be laid down immediately under any derrick for a sufficient space about the derrick to protect the workmen on the floors below that on which the derrick is working and to hold with safety the materials hoisted by the derrick.

(3) Riveters' staging shall be so constructed as to secure the reasonable safety of the riveters and a temporary floor must be provided on the girders and floor beams immediately below the portion of the floor upon which the riveters are working, sufficient for the protection of workmen engaged below that floor.

(4) The steel work may be carried on in advance of the construction of permanent floors.

9. In cities and towns the following regulations shall be complied with in erecting, altering or repairing any building, provided such city or town has not by by-law made regulations applicable to itself regarding such matters:

(1) When the work is located on the line of any street or within three feet of the inside line of the sidewalk of any street, before any of the work above the sidewalk or

footway is commenced, there shall be erected over the sidewalk or footway of the street a covered passageway or independent structure not less than eight feet high at the lowest side above the level of the sidewalk or footway and of sufficient strength to protect the public using the sidewalk or footway.

(2) If a building or excavation is to be erected or made within seven feet of the inside line of the sidewalk on any street, a strongly constructed close-board fence or barricade, not less than six feet high, shall be erected along the inside of such sidewalk.

(3) No person shall place any stone, brick, lumber or any building material, fence, barricade or temporary sidewalk so as to obstruct the free passage of water in the drains, gutters or water courses; and the roofs of all covered ways shall be kept clear of any material whatever.

(4) All sewers, ditches, drains or any other excavation of whatever nature shall be properly shored up, so as to prevent the caving in of the ground, after a depth of four feet has been excavated from the ground level.

10. The provisions of this Act shall be read and applied as supplementary to the by-laws of every municipality in this province, where any such exist, but where no by-law has been passed dealing with the matters covered by this Act then the provisions herein shall apply.

11. Sections 6, 7 and 8 of this Act shall not apply to any building not more than two storeys in height or to any excavation less than four feet deep, nor to any farm building or excavation, nor to any work being done upon a building or excavation by the owner or occupant thereof in person.

12. Nothing in this Act contained shall in any way decrease or lessen the liability or obligations of any person or corporation under The Workmen's Compensation Act, 1908.

### Thresher Employees' Liens.

Chapter 17.—1 This Act may be cited as The Thresher Employees Lien Act.

#### Interpretation.

2. In this Act unless the context otherwise requires—

(1) "Employer" includes any person or body of persons corporate or unincorporate with whom an employee as defined by this Act has entered into a contract of service whether such employer is the owner, lessee or bailee of the threshing machine on or about which such contract of service is performed;

(2) "Employee" includes every person who is engaged in an employment of threshing on or about any threshing machine and means any person who has entered into or works under a contract of service with an employer as defined by this Act whether the contract is expressed or implied, is oral or in writing;

(3) "Court" means the District Court of the judicial district within which the threshing or some part thereof has been performed and "judge" means the judge of the said court.

3. Any employee who works for wages on or about any threshing machine shall to the extent of his wages have a claim against the earnings of his employer in the hands of a third person, for whom such threshing has been done by his employer and in the course of which such employee was engaged, provided he notifies the said third person, while such threshing is being done that he has such claim; and such claim shall have priority over all assignments, attachments or garnishments of such earnings whensoever made and over every claim or right of every kind and description whatsoever accruing either before or after the passing of this Act.

(2) No such third person shall be liable to any action or proceeding by such employer or his assigns in respect of such earnings while retained by him pursuant to the provisions of this Act.

4. Such claim shall cease to exist unless such employee shall serve a claim and proceed as provided by this Act; provided, however, that within ten days after such threshing has been completed any employer and one or more employees may sign an agreement showing the amount due as wages by the employer to such employee or employees, and any third person for whom the threshing has been done by said employer may sign said agreement and undertake to pay to the employee or employees the amount so shown to be due. The execution of such agreement and undertaking shall be a release to the employer of such indebtedness to his employee or employees and a discharge *pro tanto* of the indebtedness of the said third person to the employer; and each employee may collect from said third person such sum as is so shown to be due him. The said amounts so due shall have priority over all assignments, attachments and garnishments whensoever made and over every claim or right of every kind or description. The said agreement and undertaking may be in the form A in the schedule of this Act.

5. Such claim shall be in writing and shall set out—

(a) The full name and post office address of such employee together with the post office address and full name of such employer where practicable with as much certainty and particularity as possible;

(b) A short description of the work or service done together with a statement of the length of time worked by such employee;

(c) The sum of money claimed as due.

(2) Such claim may be in the form B in the schedule to this Act or to the like effect and shall be verified by the affidavit of such employee.

(3) Such claim shall within ten days after such threshing is completed be served on such third person and on such employer.

6. Provided any employee notifies the third person for whom such threshing shall have been done as provided in section 3 and the employee's claim has not been paid, the said third person shall hold in his possession until the expiration of the said ten days the sum of money earned by such employer:

Provided, however, that in case a claim under this Act has within the said ten days been served upon him and such third person shall continue to hold in his possession such sum of money until the expiration of thirty days from the completion of such threshing or for such further time as may be provided by this Act:

Provided further that such third person shall if he fail to hold in his possession such sum of money, be to the extent thereof liable for the wages due to every employee in respect of such threshing.

7. Subject to the provisions of section 8 of this Act such third person shall after the expiration of said thirty days pay to such employee upon demand the amount of his claim unless within the said thirty days such employer shall have served upon such third person a notice of contest as herein provided.

(2) All payments lawfully made under this Act by such third person shall be deemed to be payment *pro tanto* to such employer.

(3) In case such third person neglects or refuses to pay such wages upon demand as provided by this section he may be proceeded against by such employee under The Ordinance respecting Masters and Servants, the provisions whereof are hereby declared to be applicable to any proceedings taken by such employee under this section.

8. In case the total sum of money in respect of which such claims have been served on such third person exceeds the total sum of money earned by such employer in threshing for such third person such third person shall after the expiration of ten days and not later than thirty days after such threshing was completed pay into the district court such total sum of money which payment shall be a valid discharge to him against such employer to the amount paid and shall at the same time deliver or transmit by registered post letter to the clerk of such court all claims, notices of contest and all other documents served upon him relating to such sum of money.

9. Wherever the provisions of the next preceding section shall not apply to the circumstances of the case such third person shall in case within the said thirty days he shall have been served with a notice of contest by such employer in respect of any claim as herein provided forthwith but not later than forty days after such threshing was completed and subject to the provisions of the next preceding section pay into the district court the sum of money claimed in such claim which payment shall be a valid discharge to him against such employer to the amount paid and he shall at the same time deliver or transmit by registered post letter to the clerk of such court the claim, notice of contest and all other documents served upon him relating to the said sum of money:

Provided, however, that in case the provisions of the next preceding section shall apply to the circumstances of the case such third person shall forthwith after being served with any notice of contest of such employer but not later than forty days after such threshing was completed deliver or transmit by registered post letter to the said clerk all claims, notices of contest and all other documents served upon him and relating to the said sum of money.

10. The person so paying money into court under the provisions of sections 8 or 9 of this Act shall be entitled to deduct therefrom his necessary disbursements and costs (not exceeding five dollars) excepting when such sum of money is larger than the amount of the claim of the employee in which case the person so paying money into court may deduct such costs and disbursements out of the balance in his hands but if such balance is not sufficient to cover such disbursements and costs he may deduct the difference from the amount to be paid into court.

11. The notice of contest provided by this Act shall be in form C in the schedule to this Act or to the like effect, shall contain a brief statement of the nature or grounds of contest and the post office address of such employer and be verified by the affidavit of the employer.



12. The clerk of the court shall from time to time—

(a) Forthwith after receipt by him of money paid into court pursuant to section 8 or 9 hereof notify by registered post letter such employer and all employees claiming in respect of such money; and

(b) Forthwith after receipt by him of notice of contest under this Act notify by registered post letter every employee in respect to whose claim such notice of contest is given:

Provided that if an employer shall in his notice of contest omit to state his post office address the notice to him shall be mailed to the address stated by the employee in his claim as required by section 5 hereof.

13. Where a sum of money is paid into court under this Act any employee claiming under this Act (or in case there are more than one claiming then any one of such employees) may sue out an interpleader summons to determine, adjust and finally settle the rights of the several claims and parties to such sum of money paid into court and in such proceedings between employees and employers the former shall be plaintiff and the latter defendant; and in the event of such interpleader summons not being sued out by any such employee within twenty days after such sum of money has been paid into court such sum of money shall be paid out only in pursuance of an order of the judge of the said court to such employer or his assigns or to such other person as may be entitled thereto.

(2) Such interpleader summons shall be in form D in the schedule to this Act and any number of claimants may be joined therein.

14. Upon the return of such interpleader summons the judge shall summarily determine the rights of the said several parties to the moneys so paid into court and may make such order in the premises and as to costs as shall to him appear just.

15. Where a sum of money has been paid into court by such third person and an order has been made for the payment of the sum out of court to such employees or any of them and such sum of money is not sufficient to satisfy in full the claims of such employees then in such case such sum of money shall be distributed rateably among such employees subject to any order of the court as to costs:

Provided however that any sum of money so paid into court as to which no order of payment out to such employees or any of them shall have been made shall be paid out as provided by section 13 of this Act.

16. Every employer shall upon demand at any time of any employee or of any third person for whom threshing has been done forthwith furnish to such employee or to such third person a written statement setting forth the length of time for which such employee is entitled at the time of such demand to be paid for such work and setting forth the sum of money earned by such employee for such work up to that time which written statement shall be signed by such employer or by his foreman or agent acting for him; and if such employer or his foreman or agent refuses or neglects to furnish such written statement on demand he shall be liable on summary conviction before a justice of the peace to a penalty of five (\$5) for every day during which such statement is withheld together with the costs of the prosecution.

Provided however that any contravention of this section by the foreman or agent of any such employer shall be presumed to be the act of such employer but such presumption may be rebutted by proof of explicit instructions to the contrary by such employer and any such foreman or agent contravening the provisions of this section and disobeying such explicit instructions shall be liable to the penalty provided by this section.

17. The following fees shall be paid to the clerk of the district court in respect of the following matters herein provided for and may be by him retained as to clauses (1) and (2) of this section out of the money paid into court pursuant to section 8 or 9 of this Act:

(1) Filing claim, twenty-five cents.

(2) Filing notice of contest, twenty-five cents.

(3) Interpleader summons, fifty cents.

18. For the purposes of the consequences of any order or conviction by a justice of the peace under this Act an order or conviction against a member of a partnership shall be deemed to be an order or conviction against each member of such partnership.

(Schedule omitted.)

## STATUTES OF 1913, SECOND SESSION.

### Protection of Wages of Thresher Employees.

[Chapter 26, The Threshers' Lien Act, provides for giving threshers a lien upon the grain threshed in certain cases. Section 5 of the Act enumerates conditions to which the right to exercise the said lien is subject, among which is the following:—]

5. (3) All claims for wages from employees of the thresher for such threshing shall be satisfied.

### Woodmen's Liens.

Chapter 28.—1. This Act may be cited as The Woodman's Lien Act.

2. In this Act, unless the context otherwise requires—

(a) The expression "logs and timber" means and includes logs, timber, poles, ties, bolts, staves, posts, tanbark and wood;

(b) The expression "labour, service or services" means and includes cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting, or booming any logs or timber, and any work done by cooks, blacksmiths, artisans, and others usually employed in connection therewith whether performed by wage-earners or others;

(c) The expression "person" in the third section of this Act shall be interpreted to include clerks, timekeepers, storekeepers, cooks, blacksmiths, artisans and all others usually employed in connection with such labour, service, or services;

(d) The expression "judge" means a judge of any of the District Courts in this province, or any deputy lawfully acting for him or any judge of the Supreme Court.

### How Lien Arises and When Same Attaches.

3. Any person performing any labour, service or services in connection with any logs or timber within this province shall have a lien thereon and upon any logs or timber belonging to the same owner with which any such logs or timber or any portion thereof may have become mixed for the amount due, for such labour, service or services and the same shall be deemed a first lien or charge on such logs or timber, and shall have precedence of all other claims or liens thereon, except any lien or claim which the Crown may have upon such logs or timber for or in respect of any dues or charges and no contract hereinbefore or hereafter entered into shall deprive such person of such lien.

4. The lien provided for in the last preceding section shall not remain a charge on the logs or timber, unless a statement thereof in writing verified upon oath by the person claiming such lien, or some one duly authorized on his behalf, and bearing indorsed thereon the name and address of the claimant or his solicitor shall be filed in the office of the clerk of the District Court or of the Supreme Court (according to the amount of the claim) of the judicial district in which the labour or services or some part thereof has been performed:

Provided that, when such labour or services have been performed upon any logs or timber got out to be run down or run down any of the rivers or streams, within or partly within the province of Alberta, such statement may, at the option of the claimant, be filed in the office of the clerk of the District Court or of the Supreme Court of the judicial district wherein the drive terminates or reaches its destination.

5. Such statement shall set out briefly the nature of the debt demand or claim, the amount due to the claimant, as near as may be, over and above all legal set-offs or counterclaims and a description of the logs or timber upon or against which the lien is claimed, and may be in the form set out in schedule A to this Act or to the like effect.

6. If such labour, service or services be performed between the first day of October and the first day of June next thereafter, the statement of claim shall be filed on or before the thirtieth day of said month of June, but if such labour or services be done or performed on or after the first day of June and before the first day of October in any year, then such statement shall be filed within thirty days after the last day such labour, service or services were performed:

Provided that no mortgage, sale or transfer of the logs or timber upon which a lien is claimed under this Act during the time limited for the filing of such statement of claim and previous to the filing thereof, or after the filing thereof and during the time limited for the enforcement thereof, shall in anywise affect such lien, but such lien shall remain and be in force against such logs or timber, no matter in whose possession the same shall be found.

### Enforcement of Lien.

7. Any person or persons having a lien upon or against any logs or timber under this Act may enforce the same by the regular practice and procedure of the courts according to the amount of the claim either in the District Court, or in the Supreme Court in the district within whose jurisdiction the said logs or timber, or any part thereof, may be situated at the time of the commencement of the suit; and such suit may be commenced to enforce such liens, if the same be due, immediately after the filing of such statement, or if credit has been given, immediately after the expiry of the period of credit, and such lien shall cease to be lien upon the property named in such statement, unless the proceedings to enforce the same be commenced within thirty days after the filing of the statement of claim or within thirty days of the expiry of the period of credit. In all such suits the person, company or corporation liable for the payment of such debt or claim shall be made the party defendant.

8. In any case, whether commenced by writ of summons or attachment, the judge may order that the same shall be disposed of summarily in chambers, upon such terms as to notice and otherwise as the order shall provide, and the same may be so heard and disposed of.

9. The judge may also entertain in chambers any application to set aside an attachment or seizure or to release logs or timber that have been seized, and may summarily dispose of the same.

10. When the amount of any claim filed as aforesaid is not less than ten dollars, upon the production and filing of a copy of said claim and affidavit, and of an affidavit made and sworn by the claimant as to the correctness of the amount of the claim due and owing, and showing that the same has been filed as aforesaid, and stating that—

(a) He has a good reason to believe and does believe that the logs or timber are about to be removed out of the province of Alberta; or

(b) That the person indebted for the amount of such lien has absconded from the province with the intent to defraud or defeat his creditors; or

(c) That the logs or timber are about to be cut into lumber or other timber, so that the same cannot be identified.

(d) And that he is in danger of losing his said claim if an attachment do not issue; and

(e) If an affidavit corroborating the affidavit of the plaintiff in respect of subsections (a), (b), or (c) of this section be also filed, then the clerk of the proper court within whose jurisdiction the logs or timber are shall issue a writ of attachment, directed to the sheriff or bailiff of such court, commanding such sheriff or bailiff to attach, seize, take and safely keep such logs or timber, or a sufficient portion thereof to secure the sum mentioned in the said writ, and the costs of the suit and of the proceedings to enforce the lien, and to return the writ forthwith to the court out of which the same issued.

11. Where additional claims are made or the amount of a claim is increased or a sufficient seizure has not been made, a second or subsequent seizure may be made either under execution or attachment.

12. The said writ of attachment shall also, where no writ of summons has issued, summon the defendant to enter an appearance in the court out of which the attachment has issued, and a copy of the writ of attachment shall be served upon the defendant, and if the defendant in such attachment is not the owner of the logs or timber described in the writ of attachment then a copy of the writ shall also be served upon the owner of the said logs or timber, or upon the agent or person in whose possession, custody or control they may be found for him. The owner may on his own application or by direction of a judge, be made a party defendant at the trial.

13. Where the service has not been personal upon either the defendant or owner, and where a proper defence has not been filed, the judge may in his discretion admit them or either of them to make full defence and may make such order as to service and otherwise in the premises as may be reasonable and just to all parties.

14. No sheriff or bailiff shall seize upon or detain any logs or timber under the provisions of this Act when in transit by water from the place where cut to the place of destination.

15. In case of an attachment, if the owner of said logs or timber, or any other person in his behalf, shall execute and file with the clerk of the court out of which the attachment has issued a good and sufficient bond to the person claiming the lien, executed by two sureties and approved by the said clerk and conditioned for the payment of all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings, together with the amount for which a lien is claimed in any other suit, if any, the clerk shall issue an order to the sheriff or bailiff having in charge the logs or timber directing their release, and upon service of such order upon the bailiff, he shall release the same.

16. Any person who shall have been served with a copy of the writ of attachment under this Act, and who may desire to dispute the same, shall, within ten days after such service, file in the court in which proceedings are pending a statement of defence.

17. If no statement of defence is filed under the last preceding section, judgment may be entered as in the case of default, and the practice or procedure may be the same as in a suit begun by writ of summons.

18. The defendant may, at any time after service of the writ of attachment and before the sale of the logs or timber, pay into court the amount for which a lien is claimed in the suit, together with the amount for which a lien is claimed in any other suit (if any), and together with costs of the proceedings thereon to the date of such payment taxed by the clerk of the court if so required, and the person making such payment shall thereupon be entitled to a certificate vacating such lien; and upon said certificate being filed with the clerk of the court in which the original statement of claim was filed the said lien shall be vacated and all further proceedings thereon shall cease and the person making such payment shall further be entitled to an order directing the delivery up of the logs or timber seized under the attachment and the cancellation of any bond given under the eighteenth section of this Act.

19. In any case commenced by writ of attachment, after the expiration of the time hereinbefore named within which a statement of defence may be filed and provided a statement of defence has been filed, the judge shall, in chambers as provided by section 11 of this Act, or at the next sitting of the court after due notice has been given to all parties to the suit and to all persons claiming liens on the logs or timber and whose liens are duly filed as aforesaid, or to their solicitors, hear all such parties and claimants, and take all accounts necessary to determine the amounts, if any, due to them or any of them, or to any other holders of liens who may be called by the judge to prove their liens, and shall fix or cause to be taxed by the clerk their costs and determine by whom the same shall be payable and settle their priorities and generally determine all such matters as may be necessary for the adjustment of the rights of the several parties.

20. At the conclusion of the inquiry the judge shall make his report and order, which shall state his findings and direct the payment into court in which proceedings are pending of the amounts, if any, so found due and costs, within eight days thereafter, and, in default of such payment that the logs or timber shall be sold by the sheriff or bailiff for the satisfaction of the amounts found due to the several parties upon the inquiry and costs.

21. In default of payment into court under the last preceding section within the said eight days the said logs or timber shall, within twenty days thereafter be sold by the sheriff or bailiff, in the same manner and subject to the same provisions of law as goods and chattels seized or taken in execution, unless the judge shall direct that additional publicity be given to the sale; and the amount realized by such sale shall, after deducting the expenses thereof payable to the sheriff or bailiff, be paid into the court in which the proceedings are pending, and shall upon the application of the several parties found to be entitled thereto under the order of the judge, be paid out to them by the clerk of the said court.

Provided that where the amount realized upon the sale shall not be sufficient to pay the claims in full and costs, the judge shall apportion the amount realized *pro rata* among the different claimants.

22. If, after such sale and distribution of the proceeds thereof under the preceding section, any balance shall remain due to any person under the said order of the judge, the clerk of the court shall upon the application of such person give to him a certificate that such amount remains due, which certificate may be entered as a judgment in the court having jurisdiction, against the person or persons by whom the claim was directed to be paid, and execution may be issued thereupon as in the case of other judgments in the courts.

23. Where nothing shall be found due upon the several claims filed under this Act or upon the lien or liens in respect to which proceedings have been taken, the judge may direct by his said order that the lien or liens be discharged and the logs or timber released or the security given therefor be delivered up and cancelled, and shall also by such order direct payment forthwith of any costs which may be found due to the defendant or owner of the said logs or timber.

24. Where more money shall be paid into court as the proceeds of the sale of logs or timber than shall be required to satisfy the lien which shall have been proven and the interest and costs, the remaining moneys shall be paid over to the party entitled to the same unless the judge otherwise orders.

25. Any person affected by the proceedings taken under this Act may apply to the judge to dismiss the same for want of prosecution, and the judge may make such order upon the application as to costs or otherwise as may be just.

26. The judge may at any stage of such proceedings on application of any party, or as he may see fit, order that any person who may be deemed a necessary party to any such proceedings be added as a party thereto or be served with any process or notice provided for by this Act, and the judge may make such order as to the costs of adding such person or corporation or as to such service as may be just.

27. Nothing in this Act contained shall be deemed to disentitle any person to any other remedy than that afforded by this Act for the recovery of any amount due in respect of labour, service or services performed upon or in connection with any logs or timber; and where a suit is brought to enforce a lien, but no lien shall be found to exist, judgment may be directed for the amount found due as in an ordinary case.

28. Any number of lienholders may join whether by writ of attachment or otherwise in taking proceedings under this Act, or may assign their claims to any one or more persons but the statement of claim shall include particular statements of the several claims of persons so joining.

29. The practice and procedure of the District Courts and of the Supreme Court (according to the amount of the claim) shall be followed as nearly as may be, as also the tariff of costs of the said courts.

(Schedule omitted.)

## STATUTES OF 1915.

**Protection of Employees on Public Utilities—Accidents on Public Utilities.**

[Chapter 6. The Public Utilities Act, empowers the Lieutenant-Governor in Council to appoint a board composed of three members to be known as the Board of Public Utility Commissioners. The powers of the commission as set forth in section 23 include the following:—]

(f) To impose and enforce regulations for the safety and protection of employees of any public utility;

(g) To impose and enforce regulations in case of accidents, howsoever happening, in or about a public utility or the operation thereof, and for the remedying of the cause thereof and prevention of recurrence;

27. The board shall have power, after hearing, upon notice, by order in writing, to require every public utility as herein defined—

(g) To give such notice to the board as it may by order require and of any and all accidents which may occur within this province and upon the property of any public utility as herein defined or directly or indirectly arising from or connected with its maintenance or operation, and to investigate any such accident, and the board may make such order or recommendation with respect thereto as in its judgment may be just and reasonable.

## BRITISH COLUMBIA.

## REVISED STATUTES OF 1911.

## Wages as Preferred Claims—In Assignments.

Chapter 13.—36. Whenever an assignment is made of any real or personal property for the general benefit of creditors, the assignee shall pay in priority to all claims of the ordinary or general creditors of the person making the same the wages or salary of all persons in the employment of such person at the time of making such assignment, or within one month before the making thereof, not exceeding three months' wages or salary, and such persons shall be entitled to rank as ordinary general creditors for the residue (if any) of their claims.

37. The last preceding section shall apply to wages or salary, whether the employment in respect of which the same shall be payable be by the day, by the week, by the job or piece, or otherwise.

## Inspection of Steam Boilers—Examination and Licensing of Stationary Engineers.

Chapter 24.—1. This Act may be cited as the Boilers Inspection Act.

## Interpretation.

2. In the construction and for the purposes of this Act (if not inconsistent with the context or subject-matter), the following terms shall have the respective meanings hereinafter assigned to them:—

"Boiler" wherever the same occurs in this Act, includes the steam engine or engines, the steam-pipes and connections, and every part thereof, and all apparatus and things attached to and connected therewith, or used with reference to any such boiler or engine;

"Steam plant" means and includes any steam-boiler, steam engine or engines, and all apparatus mentioned in the previous paragraph;

"Owner" means and includes any person, firm, or corporation, the owner or lessee of the boiler, and the manager or other chief officer in charge of the business of any such firm or corporation;

"Engineer" means any person having charge of or operating a steam-boiler under this Act;

"Chief Inspector" means a person appointed under this Act to inspect boilers and machinery, and to have general supervision over the Inspectors, as well as all matters and things in connection with this Act;

"Inspector" means any Inspector of steam-boilers appointed under this Act;

"Certificate" means a certificate of inspection given by the Chief Inspector or an Inspector, as the case may be;

For the purpose of collecting the yearly rate of fee hereinafter imposed, the expression "year" means the calendar year, from the first day of January to the thirty-first day of December inclusive; and for the purpose of the inspection hereinafter rendered imperative, the expression "year" means twelve calendar months from the date of the first certificate of inspection, even when subsequent inspections are made before or after the anniversary of this date;

"Horse-power" means the power of boilers calculated as follows: by taking the square feet of heating surface and dividing by fifteen;

"Low-pressure heating plant" means and includes all low-pressure heating boilers where all the water of condensation is returned to the boiler by gravity or by automatic apparatus; and in the case of steel boilers, where the maximum allowable working-pressure does not exceed thirty pounds per square inch; or in the case of cast-iron boilers, where it does not exceed five pounds per square inch.

## Extent and Application of Act.

3. (1) This Act shall apply to all steam-boilers and steam-heating plants operated within the province, except as hereinafter exempted.

(2) This Act shall not apply to railway locomotives on railways under the supervision of the Dominion, nor to any boiler subject to inspection under the Dominion "Steamboat Inspection Act," nor to any boiler or steam-heating plant with a capacity of two horse-power or under, nor to any steam-heating plants in private residences; but rooming-houses and apartment-houses shall not be considered private residences.

<sup>1</sup> See the Canada Shipping Act, R.S.C. 1906, chapter 113, sections 565 to 687 inclusive, pages 63 to 74 of this report.

(3) The Lieutenant-Governor in Council may constitute the province into a steam-boiler inspection district, or any portion or portions of the province into steam-boiler inspection districts, and may from time to time alter such districts.

#### Appointment and Qualifications of Inspectors.

4. The Lieutenant-Governor in Council may appoint a Chief Inspector and such other inspectors as may from time to time be deemed advisable, who shall hold office during pleasure, and whose duty it shall be to inspect boilers and machinery under the provisions of this Act.

5. No person shall be appointed an Inspector of Steam-boilers unless he has had five years' experience as a practical machinist or boilermaker, and he has passed a satisfactory examination before a Board of Examiners, such Board to be composed of the Chief Inspector and such other competent person or persons as the Minister of Public Works may direct.

6. Every Inspector, before entering upon his duties as such shall take and subscribe an oath before a Justice of the Peace, Police Magistrate, Stipendiary Magistrate, or Commissioner for taking Affidavits, well, faithfully, and impartially to perform the duties assigned to him by this Act, in the form or to the effect following:—

I, \_\_\_\_\_ do solemnly swear that I will well, faithfully, and impartially, to the best of my knowledge and understanding, execute the duties assigned to me as Inspector of Steam-boilers under the "Boilers Inspection Act," so help me God.

The oath taken by every inspector shall be forwarded to the Minister of Public Works without delay.

7. No person shall be appointed an Inspector of Steam-boilers who is interested in the sale or manufacture of boilers, nor shall an inspector act as agent for the sale of boilers, under penalty of removal by the Lieutenant-Governor in Council.

8. No person shall be appointed an Inspector of Steam-boilers unless he is a British subject.

#### Board of Steam-boilers Inspection.

9. The inspectors shall form a Board, to be called the "Board of Steam-boilers Inspection," of which Board the Chief Inspector shall be chairman. Three members shall form a quorum, one of whom shall be the chairman.

10. The chairman shall have the right to vote, and in the case of an equal division shall also have a casting vote.

11. The Minister of Public Works may appoint one of the inspectors to act as deputy chairman in the absence of the chairman.

12. The minutes of the proceedings of the Board shall be kept by the chairman or deputy chairman, and a copy thereof, certified by him, shall be sent to the Minister of Public Works forthwith after each meeting of the Board.

13. The Board shall meet at such times and at such places as may be determined by the Minister of Public Works; they shall have power to formulate rules and regulations for the uniform inspection of boilers and engines, and for the examination of candidates for certificates of competency as engineers under this Act. Such rules and regulations shall not come into force until they have been approved by the Lieutenant-Governor in Council.

#### Chief Inspector's Duties.

14. The chief inspector may inspect the boilers of any steam plant, and if he has reason to believe that an inspector has neglected his duty in relation to such boiler or boilers, or in any other respect, he may call a meeting of the Board to investigate the case, or he may himself investigate it; and the result of such investigation shall be at once forwarded to the Minister of Public Works.

15. The Chief Inspector shall receive and examine all specifications and drawings of new boilers to be built for the province under this Act, and if such examination shows that the boiler or boilers under consideration do not comply with the requirements of this Act, he shall at once notify the manufacturer, pointing out the defects.

16. The Chief Inspector shall also receive and examine all reports and accounts of Inspectors, and report fully to the Minister of Public Works upon all matters pertaining to his official duties, so as to insure a uniform and efficient administration of the inspection laws, rules, and regulations.

17. The Chief Inspector shall make an annual report to the Minister of Public Works, on or before the first day of January, giving the number of inspections, an account of all accidents and casualties to steam boilers, whether by explosion or otherwise, the number of defects observed, stating which defects were considered dangerous, the number of engineers examined, and the number and class of certificates issued to them.



## Inspector's Duties.

18. It shall be the duty of every Inspector to make an internal and external examination of all steam boilers to be operated within the district within which he may from time to time be required by the Chief Inspector to act, before the same shall be used, and at least once a year thereafter; he shall also see that competent men are in charge of all boilers before a certificate of inspection is granted.

19. In addition to the annual inspection, it shall be the duty of every Inspector to examine, at any time when, in his opinion, such examination is necessary, all such steam boilers within his district as are reported to him, or as he has reason to believe have become unsafe from any cause, and to notify the owner of such boiler if a defect is discovered, and what repairs are necessary in order to render them safe.

20. If a defect is discovered in a boiler which is under steam pressure, and if, in the opinion of the Inspector, such defect may cause immediate danger, he shall order the engineer or person in charge to draw the fire and blow off the steam, and the engineer or other person in charge shall obey such instructions without reference to any one else.

21. Every Inspector may, at all times when inspecting or visiting any boilers, ask the owners or engineers, or any other person in charge appearing to be in charge of such boiler, any pertinent questions concerning the same, or concerning any accident that has happened thereto, as he may think fit; and every such person shall fully and truly answer every such question so put to him; and every person who refuses to answer or falsely answers such questions, or who attempts to prevent any such inspection or obstructs an Inspector in any way, shall be liable to a penalty of not less than twenty dollars and not exceeding one hundred dollars.

22. The Inspector may require the boiler under inspection to be steamed up and the engine put in motion to test the governor or the safety valve or any other part of the boiler or engine.

23. Every Inspector shall keep such records and make such reports to the Chief Inspector as may be ordered by him.

24. Any Inspector who shall wilfully certify falsely regarding any steam boiler shall be liable to a penalty of not less than fifty dollars and not exceeding five hundred dollars.

## Inspection.

25. On commencement of construction of every boiler built in the Province under this Act, the maker of such boiler shall notify the Chief Inspector that it is open for his inspection, and at the same time shall supply him with a copy of the drawings, together with such information as will enable him to calculate the safe working-pressure.

26. The maker of every boiler to be used in the Province under this Act, but built elsewhere, shall supply the Chief Inspector with such drawings, and other information as are required by section 25 of this Act.

27. Every Inspector shall have the right, at all reasonable hours, to examine boilers in course of construction or repair, as well as those in operation, and to refuse to grant a certificate for any steam boiler found to be defective according to the provisions of this Act, or of which such examination has been refused.

28. (1) Agents of manufacturers, or importers of boilers, either new and second-hand, shall notify the Chief Inspector of all boilers imported by them, and shall furnish particulars as required by section 25 of this Act.

(2) Any manufacturer, agent, or importer who neglects to make such report, or allows a boiler to pass from his control before such report is made, shall be liable to a penalty of not less than one hundred dollars and not exceeding five hundred dollars.

29. The owner of every steam-boiler liable to inspection under this Act shall notify the Chief Inspector when he has purchased a boiler, either new or second-hand, giving the name of the firm or person from whom it was purchased, and stating when and where it can be inspected; and any person installing and putting into operation such new or second-hand boiler without such notice to the Chief Inspector shall be liable to a penalty of not less than one hundred dollars and not exceeding five hundred dollars.

30. (1) It shall be the duty of owners, lessees, or managers of steam plants to allow the Inspector free access to the boilers and engines, and to furnish water and fill the boiler, to remove the jacket or covering when and where directed by the Inspector, to remove any stays or braces that may obstruct the passage of the Inspector in his internal examination of such boiler, to supply and make all connections for the hydrostatic test, and furnish men to operate the test-pump.

(2) All engineers operating such boilers shall assist the Inspector in his examination, and shall point out to him any defects that they may know or believe to exist in the boilers or engines in their charge, and in default thereof the certificate of any such engineer or engineers so neglecting or refraining shall be revoked by the Inspector.

31. In any case in which it has been arranged to make an inspection, and the boiler or boilers are not ready when the Inspector is in the vicinity, or if from any other cause

the Inspector has to return to inspect the boiler, the expenses incurred by the Inspector in returning to inspect or to complete the inspection, if the Minister of Public Works determines that such expenses were incurred through the fault or default of the owner of such boiler, shall be paid by the owner; and if not paid at once the Inspector shall refuse to issue a certificate, or to allow the boiler to be operated until such expenses have been paid.

#### Erection and Equipment.

32. Every return-tubular boiler set in brick work shall be suspended from the back and at least, from points at each side of the shell above the fire-line; the front end may be supported by brackets resting on a substantial wall; single suspensions along the centre of the top of the shell will not be allowed; the top of the back connection must be formed by cast-iron arch-plates, or a brick arch in the form of a quadrant springing towards and resting against the back head of the boiler in such a way as to allow of the free expansion of the boiler; all flues and back connections shall be constructed with doors arranged so as to be easily accessible for inspection.

33. Each boiler shall have a safety-valve of sufficient area and of an approved pattern, and all boilers built or imported for use under this Act shall be provided with spring loaded safety-valves constructed so as to give an increased lift by the operation of the steam after being raised from their seats, such valves to be placed directly on the boiler-shell and independent of the main steam-outlet, every such safety-valve to be provided with lifting-gear.

34. Where lever safety-valves are in use on existing boilers, they may be passed by the Inspector, provided that the area of such valve is not less than one square inch for every three square feet of grate surface; that the distance between the centre of the valve and the fulcrum is not less than one-half the diameter of the valve, and the length of the lever does not exceed five times the diameter of the valve; that the valve, valve-seat, and pin in fulcrum be of brass, and that the efficiency of the valve under steam-test be not less than ninety per cent.

35. Every steam-boiler shall be provided with at least one correct steam-gauge, which shall be open to view from the boiler fronts, and shall be fitted in such a way and in such position as the Inspector may direct.

36. Every steam-boiler shall be provided with a suitable water-gauge, capable of showing the correct water-level within each boiler at all times, and where a water-column is used the lower connection shall not be placed below the upper heating surface, or the lowest safe low-water line.

37. Each boiler shall also be provided with try-cocks.

38. Every boiler shall be provided with a suitable blow-off cock and connection, such connection to be placed so that the mud and loose scale may be blown out while the boiler is under pressure. In return-tubular boilers the blow-off connection is to be made in the bottom of the shell at the back end.

39. The arrangements for delivering the feed-water to the boilers shall be such that the boilers cannot be injured thereby; the delivery-pipe shall be provided with a stop-valve next to the boiler, and in the case of a battery of boilers each and every boiler shall have a feed-regulating valve in such a position that it can be operated from the boiler front, and each delivery branch shall have a separate check-valve.

40. In cases where boilers have brick flues, the flues shall be so constructed that the products of combustion cannot come in contact with the boiler-sheets above the water-line.

41. Every boiler shall be provided with a fusible plug, to be inserted at a point to be determined by the Inspector, unless he shall determine that in certain cases such fusible plug is not necessary.

42. If the Inspector approves of the boiler and equipment, and is satisfied that a competent man is in charge as engineer, he shall make and sign a certificate according to the form in the schedule, which certificate shall be delivered to the owner upon payment of the yearly fees.

43. A certificate may be issued for a period less than twelve months, should the Inspector deem it advisable so to do.

44. (1) The said certificate, together with a copy of sections 51 and 52 of this Act, shall be posted up, and be kept posted up in a conspicuous place on the steam-boiler, or in the engine or boiler room where such boiler is being operated, in such place as the Inspector shall direct, and no person operating such steam-boiler shall operate the same at a higher pressure than that authorized in the certificate.

(2) Any person violating the provisions of this section shall be liable to a penalty not exceeding one hundred dollars.

45. Nothing in this Act shall be construed to prevent the use of any boiler or steam-generator which is not constructed of riveted iron or steel plates, when the Inspector has satisfactory evidence that such boiler or steam-generator is equal in strength and as safe from explosion as boilers of the best quality constructed of riveted iron or steel plates.

## Some Obligations and Penalties.

46. Any person who constructs a steam-boiler, or any part of a steam-boiler, or who makes any repairs to same, such construction or repairs being known to be defective, shall be liable to a penalty of not less than two hundred dollars and not exceeding five hundred dollars.

47. No person shall in any way alter the lever or weight of a safety-valve, or, if a spring-loaded safety-valve is used, no one shall alter the spring so as to carry a greater pressure than that allowed by the Inspector, under a penalty of not less than two hundred dollars and not exceeding five hundred dollars.

48. It shall be the duty of the engineer in charge to blow, or cause the safety-valves to blow, off steam often enough to satisfy himself that the valves are in good order; and it shall be his duty to report to the Inspector any failure of such valves to operate.

49. In case no such report is made, and a safety-valve is found to have been tampered with, or out of order, the certificate of the engineer having such boiler in charge shall be revoked; and the Inspector shall have power to cancel the certificate of inspection for such boiler until another engineer has been placed in charge.

50. Any person who alters or conceals or otherwise tampers with the steam-gauge, so as to prevent the actual steam-pressure of the boiler from being seen and ascertained by any person, shall be liable to a penalty of not less than one hundred dollars and not exceeding five hundred dollars.

51. Any person operating a steam-boiler, as well as the owner or lessee thereof, in case the same is being operated with his consent, without there being an unexpired certificate of inspection thereof, shall be liable to a penalty of five dollars a day for each and every day that he shall operate such uncertificated boiler, except in such cases where the owner has made a request in writing to an inspector to have such boiler examined, but for good and valid reasons such inspection has not been made.

52. It shall be the duty of any person operating or owning any steam-boiler pronounced by the inspector as unsafe to cease to use the same until such repairs as are indicated by the inspector are made, and in case of failure to comply with the requirements of the inspector, the person owning or leasing, as well as the person operating, any such boiler shall be liable to a penalty of not less than one hundred dollars, and shall also be liable for any damage to person or property resulting therefrom.

53. (1) No person shall employ another as engineer, and no person shall act as engineer of any steam plant operating under this Act, unless the person so employed or acting holds a certificate of competency, a certificate of service, a special certificate, or a temporary certificate, granted under this Act: Provided, however, that in case of illness or other unavoidable cause the engineer in charge is absent from duty, without fault or collusion of the owners or of any person interested, then such deficiency may be supplied until an engineer holding such certificate can be obtained, and the inspector of the district in whose jurisdiction the steam plant is being operated shall be forthwith notified of the temporary change by the owner of the plant and by the person acting temporarily as engineer. Temporary engineers must not be employed for more than one month without the consent in writing of the Chief Inspector.

(2) Any person violating any provision of this section shall be liable to a penalty of not less than one hundred dollars and not exceeding three hundred dollars.

54. The amount of all fees for engineers' certificates, as well as all fines and penalties, shall be paid to the Chief Inspector, who shall account for any pay over all such fees, fines, and penalties in the same manner as provided in section 79 of this Act.

55. All penalties imposed under this Act shall be recoverable before a Justice of the Peace, a Police Magistrate, or a Stipendiary Magistrate. Such Justice of the Peace, Police Magistrate or Stipendiary Magistrate, in case the penalty awarded by him be not forthwith paid upon conviction, with such costs as shall be awarded, shall levy the same by distress and sale of the goods and chattels of the offender, by warrant under his hand and seal.

56. All penalties incurred under this Act may be recovered, in the name of His Majesty, by any inspector appointed under this Act, or any chief constable of the Provincial Police Department; or by any person or persons aggrieved by any act, neglect, or omission; or by any person named by the Minister of Public Works, in writing, on the evidence of one credible witness, who may be any one of the persons before named for the purpose of recovering penalties.

57. Any information or complaint with respect to any offence against any of the provisions of this Act shall be laid or made within twelve months from the time when the matter of the information or complaint arose.

58. No conviction or warrant of commitment under this Act shall be vacated, quashed, or set aside for want of form or be removed by writ of certiorari or other process into the Supreme Court.

## Accidents and their Investigation.

59. In case of an explosion taking place in any steam-boiler to which this Act applies, for which the owner or lessee thereof has not obtained a certificate of inspection, or if the certificate of inspection has expired, and any person be killed or injured thereby, or any property be destroyed or damaged, the owner or lessee of such boiler shall *prima facie* be deemed guilty of negligence, and liable for any injury occasioned by such explosion, and the onus shall be on the owner or lessee of such boiler to show that all reasonable and proper precautions had been taken to prevent such explosion or accident, except in such cases as are exempt under section 51 of this Act.

60. (1) On the occurrence of an explosion of any boiler to which this Act applies, notice thereof shall be sent at once by telegraph to the Chief Inspector and to the Inspector within whose jurisdiction the explosion took place, by the owner or lessee, or by some person acting on behalf of such owner or lessee, stating the precise locality, as well as the number of persons killed or injured; and after the explosion of any such boiler no part or parts of the same shall be removed or their positions altered, by any person, except to rescue persons injured, or to remove the bodies of persons killed, until such permission has been given in writing by the Chief Inspector.

(2) Any person neglecting or violating any of the provisions of this section shall be liable to a penalty not exceeding five hundred dollars, or to imprisonment for a term not exceeding twelve months.

61. On receipt of notice of a boiler explosion the Chief Inspector shall fully investigate the causes and circumstances attending such explosion, and the investigation shall be held at or near the place of the occurrence of such explosion.

62. On the occurrence of an accident to any boiler or engine or any part of the same, the engineer in charge shall report such accident in writing to the Inspector in whose jurisdiction it took place, or in default the Inspector may cancel his certificate.

63. The Chief Inspector may hold an investigation with respect to any accident to any part of a steam boiler or its equipment to which this Act applies, and with respect to any injury caused to any person or property by the alleged negligence or incompetence of an engineer holding a certificate under this Act; and he may summon witnesses and compel their attendance before him by the same process as courts of justice, and may administer oaths and examine witnesses touching the cause of such accident, and he shall forthwith report in writing thereon to the Minister of Public Works.

64. An appeal shall lie from any ruling or decision of an Inspector, to the Chief Inspector, and from him to the Minister of Public Works, whose decision shall be final; and the said Minister shall have power to order the payment of a reasonable sum for costs, the same to be recovered in any court of competent jurisdiction by the parties to whom awarded.

65. In any appeal it shall be lawful for the Minister of Public Works, if he think fit, to summon to his assistance any expert engineer, who shall attend and assist accordingly.

66. Any charge of neglect of duty or other complaint against an Inspector shall be made in writing to the Minister of Public Works, stating the specific charge or charges.

## Engineers.

67. (1) Any person who claims to be qualified to perform the duties of engineer of a steam plant may apply to the Chief Inspector, who will furnish him with an application form for a certificate, which must be properly filled out and returned to the Chief Inspector. After examination of the proofs which he produces in support of his claim, and if, upon full consideration, he is satisfied that the applicant's character, habits of life, knowledge, and experience are such as to authorise the belief that he is a suitable person to be intrusted with the powers and duties of such position, he shall examine the applicant or cause him to be examined by one of the Inspectors, who shall certify as to his fitness, and the report of the Inspector so certifying shall be forwarded to the Minister of Public Works, who may thereon grant the applicant a certificate of the grade mentioned in the report; but if the report of the said Inspector does not certify the fitness of such applicant or is not approved, the fee paid by the candidate shall not be returned, but he may once more be examined without payment of further fee.

(2) The fees for examination shall be five dollars for any grade upon first examination, and two dollars and fifty cents upon examination to be advanced to a higher grade, or to obtain a temporary certificate, such fees to be enclosed with the application form; the fees will be returned to the applicant only in cases where an examination, or a temporary certificate, is not granted.

68. Every certificate, unless otherwise stated therein, shall be granted for life, or during good conduct; but if it be proven before the Board of Steam-boilers Inspection that the holder of any certificate granted under the provisions of this Act is guilty of negligence, or has refused to comply with any of the provisions of this Act, such certificate may be suspended, marked, or revoked, as the Board may recommend to the Minister of Public Works; or it may be cancelled in consequence of the findings of a

coroner's inquest; and it may also be suspended or cancelled by the Minister of Public Works for any other cause, provided such cause is deemed sufficient by him and is so certified.

69. The Chief Inspector, upon the report of the Inspector in whose district the steam plant is being operated, may grant a temporary certificate to an applicant who is considered sufficiently qualified, authorising him to act as engineer for the plant specified; Provided, however, that no such steam plant shall be operated more than twelve months by an engineer holding a temporary certificate, and that no more than one temporary certificate shall be issued to one man.

70. All certificates, with the exception of temporary and special, shall be on parchment.

71. If any engineer proves, to the satisfaction of the Minister of Public Works, that he has, without fault on his part, lost his certificate, or that it has been destroyed, the said Minister may, upon payment of two dollars and fifty cents, cause a duplicate of the original certificate to be made, signed, and delivered to him.

72. Every engineer holding a certificate under this Act shall have it framed and protected by glass, and shall keep it posted up in some conspicuous place in the engine or boiler room, and any engineer neglecting to do so shall be liable to a penalty of temporary suspension.

73. It shall be the duty of an engineer, when he assumes charge of boilers and engines, to forthwith thoroughly examine the same, and if he finds any part thereof in bad condition, caused by neglect or inattention on the part of his predecessor, he shall immediately report the facts to the Inspector, who shall thereupon investigate the matter, and if the predecessor has been negligent in his duty the Inspector may suspend his certificate.

74. It shall be the duty of every engineer who assumes charge, or vacates his position as engineer, to notify the Inspector of such fact, and any failure to comply with this provision shall be punishable by a suspension of his certificate for such period or periods as the Minister of Public Works may determine.

75. (1) Engineers shall be classified according to the following grades:—

- First-class engineers;
- Second-class engineers;
- Third-class engineers;
- Fourth-class engineers;
- Fifth-class engineers;
- Engineers with temporary certificates;
- Engineers with service certificates;
- Engineers with special certificates.

(2) A first-class engineer shall be qualified to take charge of any steam plant.

(3) A second-class engineer shall be qualified to take charge of any steam plant of not more than five hundred horse-power, where condensing-engines are used; he shall be qualified to take charge of any steam plant where simple high-pressure engines are used, and he shall also be qualified to act as second or assistant engineer of any steam plant.

(4) A third-class engineer shall be qualified to take charge of any simple-high-pressure steam plant of not more than two hundred and fifty horse-power, or any steam fire-engine, or any condensing steam plant up to one hundred and fifty horse-power; he shall also be qualified to act as second or assistant engineer of any steam plant where high-pressure engines are used, or where a condensing steam plant is used up to five hundred horse-power.

(5) A fourth-class engineer shall be qualified to take charge of any steam plant of not more than fifty horse-power (excepting steam fire-engines): he shall also be qualified to act as second or assistant engineer of any steam plant up to two hundred and fifty horse-power, except a plant where the engines are condensing-engines.

(6) A fifth-class engineer may take charge of any logging engine or boiler, or any engine and boiler used for farming purposes, not exceeding twenty horse-power.

(7) No fifth-class certificate will be issued unless the application therefor was received and accepted by the Chief Inspector before the first day of April, 1910, and further provided that after that date a fifth-class certificate may be exchanged for a special certificate without payment of further fees, if the holder of such fifth-class certificate produces the testimonials required and passes the special examination provided by the "Regulations Relating to the Examination of Engineers."

(8) A temporary certificated engineer shall be qualified to take charge of the steam plant mentioned on the face of his certificate, and no other.

(9) An engineer with a certificate of service, given without examination, shall be qualified to act as second, third, or fourth-class engineer as if he were in possession of a certificate of competency of a similar grade.

(10) An engineer with a special certificate shall be qualified to take charge of any type of steam plant mentioned on the face of his certificate, such as:—

- Low-pressure heating plant;
- Creamery plant, not exceeding twenty-five horse-power;
- Logging-donkey;
- Logging-locomotive;
- Traction-engine or road-roller;
- Portable threshing engine;

or any other type of steam plant for which special service and examination is from time to time provided for in the "Regulations relating to Engineers' Examination."

(11) A candidate for a service certificate must have been in charge of a steam plant, or an engineer in charge of a watch, in the province for five years immediately preceding the tenth day of February, 1904; and

(a) For a second-class certificate must have been in charge of a steam plant (or in charge of a watch) where the actual horse-power is not less than one hundred and fifty;

(b) For a third-class certificate must have been in charge of a steam plant (or in charge of a watch) where the actual horse-power is not less than twenty-five;

(c) For a fourth-class certificate must have been in charge of a steam plant (or in charge of a watch).

(12) Service certificates shall be without fee and in the same form and description as those now issued by the Minister of Public Works to those entitled to a certificate of competency.

(13) No service certificates will be issued unless the application therefor was received by the Chief Inspector before the first day of January, 1905.

76. Any person who is in charge of, or responsible for, any steam boiler or engine while under steam-pressure or in motion, shall be deemed to be serving and employed as engineer while so in charge.

77. For the purpose of the classification of engineers, a compound engine up to twenty-five horse-power will be considered a simple engine.

#### Inspection Fees.

78. The owner of every boiler in the province to which this Act applies shall pay yearly and every year the following fees or dues: At the first inspection of all boilers, twenty cents per horse-power, with a minimum of five dollars and a maximum charge of forty dollars for each boiler, and at all subsequent yearly inspections according to the following scale:—

The minimum charges shall be five dollars;

For each boiler, from twenty-five horse-power to fifty horse-power, twenty cents per horse-power;

For each boiler, up to seventy-five horse-power, twenty cents up to fifty horse-power, and fifteen cents for each additional horse-power up to seventy-five horse-power;

For each boiler, up to one hundred horse-power, twenty cents for the first fifty, fifteen cents for the next twenty-five horse-power, and ten cents for each additional horse-power up to one hundred;

For each boiler, up to one hundred and fifty horse-power, twenty cents for the first fifty, fifteen cents for the next twenty-five, ten cents for the next twenty-five, and five cents for each additional horse-power up to one hundred and fifty; above this, two cents and a half for each additional horse-power.

The above-mentioned fees shall be liable to a reduction as follows:

For every two boilers belonging to the same plant and made ready for inspection at the same time, a reduction of ten per cent will be allowed:

For every three boilers belonging to the same plant and made ready for inspection at the same time, a reduction of twenty per cent will be allowed:

And for every four boilers, or over, belonging to the same plant and made ready for inspection at the same time, a reduction of thirty per cent will be allowed.

79. The amount of such fees or dues shall, in each case, be paid to and received by the Inspector of Steam-boilers at the time he makes such inspection, and the said Inspector shall, at such times and in such manner as the Minister of Public Works shall from time to time direct, account for and pay over the same to the Minister of Finance and Agriculture, to form part of the Consolidated Revenue Fund. The Inspector shall not make or deliver a certificate respecting any steam-boiler under this Act unless the fees or dues have been paid, as hereinbefore set forth.

#### Power to make Rules and Regulations.

80. The Lieutenant-Governor in Council may make rules and regulations for the inspection of steam-boilers, and all matters connected with the construction and working thereof, including the examination of persons in charge of the same.<sup>1</sup>

<sup>1</sup> Regulations have been issued under this section respecting designs, materials, and fittings to be used in the construction of boilers, and also prescribing the mode of inspecting boilers.



81. All rules and regulations made under the authority of this section shall, after publication in the Gazette have like force and effect as if herein enacted.  
(Schedule omitted.)

### **Wages as Preferred Claims—In Liquidations.**

Chapter 39.—250. (1) In a winding-up there shall be paid in priority to all other debts—

(a) All assessed taxes, rates, real property tax, personal property tax, wild land tax, coal land tax, timber land tax, or income tax assessed on the company up to the first day of January next before that date, and not exceeding in the whole one year's assessment; and

(b) All wages or salary of any clerk or servant in respect of services rendered to the company during three months before the said date, not exceeding two hundred and fifty dollars; and

(c) All wages of any workman or labourer, whether payable for time or for piece work, in respect of services rendered to the company during three months before the said date; and

(d) Unless the company is being wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company, all amounts (not exceeding in any individual case five hundred dollars) due in respect of compensation under the "Workmen's Compensation Act."

(2) The foregoing debts shall—

(a) Rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions; and

(b) In so far as the assets of the company available for payment of general creditors are insufficient to meet them have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(3) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding-up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.

(4) In the event of the landlord or other person distraining or having distrained on any goods or effects of the company within one month next before the date of a winding-up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof:

Provided that in respect of any money paid under any such charge the landlord or other person shall have the same right of priority as to the person to whom the payment is made.

(5) The date hereinbefore in this section referred to is—

(a) In the case of a company ordered to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding-up order; and

(b) In any other case, the date of the commencement of the winding-up.

### **Co-operative Associations.**

Chapter 48.—3. (1) Any seven or more persons who desire to associate themselves together as an incorporated association under this Act, for the purpose of carrying on any labour, trade, or business, or several labours, trades, or businesses, whether wholesale or retail may make, sign, and acknowledge, before a Notary Public or Justice of the Peace, in duplicate, a certificate in writing in the form in Schedule A to this Act, or to the same effect, and file the same in the office of the Registrar, together with a copy in duplicate of the rules or by-laws agreed upon for the regulation, government, and management of the association, signed by such persons respectively.

(2) The signatures to the rules or by-laws shall be verified by the affidavit of a subscribing witness thereto.

(3) Upon the filing of the certificate and rules or by-laws as aforesaid, and payment of the proper fees, the members of such association shall become a body corporate by the name therein described, having perpetual succession and a common seal, with power to sue and be sued, plead and be impleaded, in all courts in the province, and to hold such lands as are required for the convenient management of their business.

### **Earnings of Minors—Suits for Wages.**

Chapter 53.—60. It shall be lawful for any person under the age of twenty-one years to prosecute any suit in any Court holden under this Act, for any sum of money not greater than five hundred dollars which may be due to him for wages or piece-work, or for wages as a servant, in the same manner as if he were of full age.



### Wages as Preferred Claims—In Executions.

Chapter 60.—33. (1) All persons who are at the time of the seizure by the Sheriff, or who within one month prior thereto have been in the employment of the execution debtor and who shall become entitled to share in the distribution of money levied out of the property of a debtor within the meaning of this [Creditors' Relief] Act, shall be entitled to be paid out of such money the wages or salary due or accruing due to them by the execution debtor at the time of the seizure, not, however, exceeding three months' wages or salary, in priority to the claims of the other creditors of the execution debtor, and shall be entitled to share *pro rata* with such other creditors as to the residue (if any) of their claims.

(2) Where proceedings are taken for the distribution of the estate of an execution debtor under this Act, the provisions of this Act shall supersede the provisions of sections 7, 8 and 9 of the "Execution Act."<sup>1</sup>

### Protection of Employees as Voters—Time to Vote.

Chapter 72.—190. Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make use of, or threaten to make use of, any force, violence, or restraint, or inflict or threaten the infliction, by himself or by or through any other person, of any injury, damage, harm, or loss, or in any other manner practice intimidation upon or against any person, in order to induce or compel such person to vote or restrain from voting, or on account of such person having voted or refrained from voting, at any election, or who shall, by abduction, duress, or any fraudulent device or contrivance, impede or prevent or otherwise interfere with the free exercise of the franchise of any elector, or shall thereby compel, induce, or prevail upon any elector either to give or refrain from giving his vote at any election, shall be deemed to have committed the offence of undue influence, and shall be guilty of an offence against this Act, and shall be liable, on summary conviction before any two justices of the peace or any stipendiary or police magistrate, to a penalty not exceeding two hundred and fifty dollars, and shall also be liable to forfeit the sum of two hundred and fifty dollars to any person who shall sue for the same, together with the full costs of suit.

220. Polling-day in any electoral district shall be a public holiday, and every registered elector of the electoral district who is within the electoral district on that day and who is a workman or employee for hire shall be allowed by his employer to be free from his employment on that day for at least four consecutive hours between the opening and closing of the poll, and every employer who offends against this provision, without reasonable justification, shall be liable to a penalty of not more than one hundred dollars, to be recovered under the "Summary Convictions Act."

### Inspection and Regulation of Electrical Works, Appliances, etc.

Chapter 73.—1. This Act may be cited as The Electrical Energy Inspection Act.

#### Inspectors, their Powers and Duties.

2. The Lieutenant-Governor in Council may appoint and authorize any proper person (hereinafter called "the inspector"), whose duty it shall be, and who shall have authority, at all reasonable times,—

(a) To enter upon any place, building, or structure, and inspect all machinery, plant, works, wires, and appliances, used for or in connection with the generation, transmission, or supply of electrical energy for power, lighting, heating, or telephonic or telegraphic communication purposes;

(b) To require the attendance of all such persons as he thinks fit to summon and examine, and to require answers or returns to be made to such inquiries as he thinks fit to make;

(c) To require the production of all books, papers, plans, specifications, drawings, or documents material for the purpose of such inspection.

3. The authority of the Inspector shall be sufficiently evidenced by a paper in writing signed by the Provincial Secretary stating that the person named therein has been appointed an Inspector under the provisions of this Act.

4. Every person, and the officers, servants, employees and agents of every person, whose premises, machinery, plant, works, wires, or appliances are being inspected under the provisions of this Act, shall afford to such inspector all information, and full and true explanations, so far as may be in their power or knowledge, on all matters inquired into by such Inspector and shall produce and submit to the Inspector all books, papers, plans, specifications, drawings and documents material for the purpose of the inspection being made.

<sup>1</sup> See R.S. 1911, Chapter 79, page 605 of this report.

5. The person whose premises, machinery, plant, works, wires, or appliances are being inspected, and the officers, servants, employees, and agents of such person, shall furnish the means required by the inspector that may be necessary for entry, inspection, examination, inquiry, or the exercise of any of his powers under this Act in relation to the premises, machinery, plant, works, wires, or appliances being inspected.

6. Every person who wilfully delays the Inspector in the exercise of any of his powers under this Act, or fails to comply with the request or summons by the Inspector, or to produce any book, paper, plan, specification, drawing, or document material for the purpose of any inspection under this Act which he is required to produce, shall be deemed to obstruct the Inspector in the execution of his duties under this Act.

7. Any person who obstructs the Inspector in the execution of his duties under this Act shall be liable to a fine not exceeding fifty dollars.

8. Any notice, order, requisition, summons, or documents under this Act may be in writing or print, or partly in writing or partly in print.

9. When the inspector is of the opinion that any place, building, or structure, or any machinery, plant, works, wires, or appliances, used for or in connection with the generation, transmission, or supply of electrical energy for any of the purposes mentioned in section 2 hereof, is for any reason dangerous to life or limb, he may give notice to the owner thereof to remedy such defect within a time to be specified in the said notice.

10. The Inspector shall forthwith report the same to the Attorney-General, who shall submit the matter to the Lieutenant-Governor in Council, who may either confirm, modify, or disallow the order of the Inspector, and such confirmation, modification, or disallowance shall be duly notified to the person affected thereby.

11. Should the person affected by such order, as confirmed or modified by the Lieutenant-Governor in Council, neglect within one week after notice of the action of the Lieutenant-Governor in Council in the premises to comply therewith, he shall for each day such neglect continues be deemed guilty of an offence against the provisions of this Act, and shall for each of the said offences be liable to a fine not exceeding fifty dollars.

12. All orders or decisions of the Lieutenant-Governor in Council under this Act shall be considered as made known to the person affected thereby by a notice signed by the provincial secretary and delivered to the person affected by the order, or, where such person is a company, to the president, vice-president, chairman of directors, secretary, or superintendent of such company, or at the office of the company.

13. All prosecutions under this Act may be brought and heard before any two of His Majesty's Justices of the Peace or any stipendiary magistrate, and save as otherwise provided the procedure shall be governed by the Summary Convictions Act.

14. At the end of each calendar year the Attorney-General shall ascertain the total sum expended during the year in the enforcement of this Act, including the salary of the Inspector. The sum so found to have been expended shall be apportioned by the Attorney-General amongst the persons whose premises, machinery, plant, works, wires, or appliances have been inspected under the provisions of this Act during the year.

15. Notice shall be given by the Attorney-General in the Gazette of such apportionment, whereupon the sums so apportioned shall become debts forthwith due and payable to His Majesty the King by the persons respectively amongst whom they have been apportioned, and shall without any further deed or instrument in writing become a first charge and mortgage upon all the respective property and assets of the said persons.

16. The Lieutenant-Governor in Council may from time to time, for the purpose of carrying out the provisions of this Act, make such rules, regulations, and orders for enforcing its provisions and for the conduct and the duties of the Inspector as may be deemed necessary.

17. No inspection had under this Act nor anything in this Act contained or done or ordered, or omitted to be done or ordered, under or by virtue of the provisions of this Act, shall relieve or be construed to relieve any person of or from any liability or responsibility resting upon such person by law, either towards His Majesty or towards any person, or the wife or husband, parent or child, executor or administrator, or other personal representative of any person for anything done or omitted to be done by or for any wrongful act, neglect, or default, mistfeasance, malfeasance, or nonfeasance, of such person, or in any manner or way to lessen the liability or responsibility, or in any way to weaken or diminish the liability or responsibility, of such person under the laws existing in the province.

#### Liability of Employers for Injuries to Workmen.

[Chapter 74, The Employers' Liability Act is replaced by The Workmen's Compensation Act, 1916, chapter 77.]

### Wages as Preferred Claims—In Executions.

Chapter 79.—7. In case of seizure under any writ of execution against goods or order made for sale of lands, or in case of any sale of such goods or lands by a receiver under an order or decree of court or otherwise, any clerks, servants, labourers, or workmen, to whom the execution debtor or person against whom the process issues is indebted for salary or wages, may apply, or any two or more may join in applying, by summons in Chambers, to a Judge of the court out of which the process issues, and it shall be lawful for such Judge, upon such application, to order so much as shall be due or accruing due at the time of the seizure to such clerk, servant, labourer or workman from the execution debtor for salary or wages, not exceeding three months' arrears, and taxed costs of an incidental to such application, after paying the execution creditor his costs of obtaining judgment and execution, or of such order for sale of lands, to be retained by the Sheriff out of the proceeds (if any) of the execution, or sale, or by the receiver, in preference to the remainder of the claim of the execution creditor, and such Sheriff or other officer having charge of the execution, or such receiver, shall obey such order on pain of attachment.

### Regulation of Manufacture, Sale and Storage of Explosives.

Chapter 80.—1. This Act may be cited as The Explosives Regulation Act.

#### Preliminary.

2. Every building used for the storage or keeping of any quantity of gunpowder exceeding two hundred pounds in weight, or used for the storage or keeping of any quantity of any other explosive substances exceeding ten pounds in weight, shall be deemed a powder-magazine within the meaning of this Act.

3. This Act shall not apply to nor affect any magazine belonging to His Majesty, nor to the conveyance of gunpowder or other explosive substance or stores to and from His Majesty's magazines by His Majesty's naval or military forces.

#### Storage and Conveyance of Explosives.

4. No powder magazine shall be kept or erected within the limits of any city in the province, nor within two miles thereof, except that where mines are actually existing or become established in any city or town, or within two miles of the limits thereof, it shall be lawful to maintain powder-magazines within such city or town, or within two miles of the limits thereof, provided that such magazines be not within one-quarter of a mile of any inhabited house, and, in case of any dwelling being subsequently built within that distance, such magazines be rendered absolutely safe by natural mountains or hills or by artificial mounds of sufficient height and thickness intervening between such magazines and any such inhabited house, and provided also that the Inspector of Mines for the district shall first certify that such magazines comply with the foregoing requirements, and also except where otherwise authorized by the Lieutenant-Governor in Council.

5. The Lieutenant-Governor in Council may from time to time make all necessary regulations, consistent with the provisions of this Act, for the receipt, conveyance, storage, and delivery of gunpowder, or any other explosive substance, within two miles of the limits of any city; and the Lieutenant-Governor in Council may from time to time grant such special licenses for the erection and maintenance of powder-magazines otherwise prohibited by this Act at such places within said limits, and upon such conditions as shall appear expedient.

6. No gunpowder or other explosive substance shall be stored, kept, conveyed, received, or delivered within two miles of any city, except in accordance with the regulations made, or to be made, by virtue of the last preceding section.

7. It shall not be lawful for any powder-magazine, or store-house or place where powder or other dangerous explosive substances are kept or stored, to be or to remain within a distance of five hundred yards from any schoolhouse or place or building used for the purposes of a school, or where scholars do or may assemble for the purposes of the "Public Schools Act."

8. No nitro-glycerine shall be kept in any building or elsewhere except a license from the Lieutenant-Governor in Council shall be first granted therefor.

#### Penalties.

9. The regulations to be made by virtue of section 5 of this Act may impose penalties for all infractions of such regulations, or for any infraction of this Act where no other penalty is imposed, and the same may be recovered in a summary manner before any Justice of the Peace having jurisdiction within the said limits, who may order any person convicted before him of any such infraction to pay such penalty or penalties,

with costs, forthwith; and in default of payment of such penalty or penalties, with costs, to be imprisoned for a term not exceeding two months, unless the said penalty or penalties and costs, including the cost of conveyance to gaol, be sooner paid.

10. Every person who shall, contrary to the provisions of this Act, and of any regulations made hereunder, keep or erect any powder-magazine within the limits of any city in the province, or within two miles of any city, shall be guilty of an offence against this Act, and shall, upon summary conviction thereof before any Justice of the Peace, be liable to a penalty not exceeding five hundred dollars.

11. If any person wilfully violates the provisions of section 7 he shall, upon summary conviction thereof, be liable to a fine not exceeding five hundred dollars.

12. Every proprietor or lessee of any powder-magazine shall be personally liable for any penalties imposed for the contravention of this Act, or of any regulations made by virtue of this Act, in respect of the conveyance of powder or other explosive substance to or from such magazine.

#### Further Requirements.

13. Every cartridge, stick, parcel, or package containing any explosive, excepting gunpowder, for use in mining, quarrying, blasting, farming, or other industrial occupations shall have printed or stamped thereon in legible characters—

(a) The month and year when such explosive was manufactured;

(b) The percentage of explosive material contained.

14. Any manufacturer, agent, or any person who sells or offers for sale any explosive in contravention of the provisions of this Act shall be liable to a penalty not exceeding two hundred dollars, or in default thereof to a term of imprisonment not exceeding six months.

#### Inspection and Regulation of Factories.

Chapter 81 with amendments.—1. This Act may be cited as The Factories Act.

#### Interpretation.

2. In this Act, unless the context otherwise requires,—

“Factory” means—

(a) Any building, workshop, structure, or premises of the description mentioned in Schedule A to this Act, in which three or more persons are employed, together with such other building, workshop, structure, or premises as the Lieutenant-Governor in Council from time to time adds to the said Schedule. 1915, c. 25, s. 2.

(b) Any premises, building, workshop, structure, room, or place wherein, or within the precincts of which, steam, water, or other mechanical power is used to move or work any machinery employed in preparing, manufacturing, or finishing, or in any process incidental to the preparing, manufacturing, or finishing of, any article, substance, material, fabric, or compound, or is used to aid the manufacturing process carried on there:

(c) Any premises, building, workshop, structure, room, or place wherein the employer of the persons working there has the right of access and control, and in which, or within the precincts of which, any manual labour is exercised by way of trade, or for the purposes of gain in or incidental to the following purposes, or any of them: that is to say, the making of any article or part of any article, the altering, repairing, ornamenting, or finishing of any article, or the adapting for sale of any article:

(d) A part of a factory may be taken to be a separate factory, and a place used as a dwelling shall not be deemed to form part of a factory:

(e) Where a place, situate within the close or precincts forming a factory, is solely used for some purpose other than the manufacturing process or handicraft carried on in the factory, such place shall not be deemed to form part of that factory, but shall, if otherwise it would be a factory, be deemed to be a separate factory and be regulated accordingly:

(f) Any premises or place shall not be excluded from the definition of a factory by reason only that such premises or place are or is in the open air:

(g) Where any owner, occupier, or tenant of any premises, building, workshop, structure, room, or place, who has the right of access thereto and control thereof, lets, or hires out, or contracts for, work or labour to be done therein by any other person, and such other person engages or employs therein any workman, child, young girl, or woman in or for the carrying-out or performing of such work or labour, or any part thereof, every such workman, child, young girl, or woman shall be considered and taken as being in the service and employment of the said owner, tenant, and occupier; and in computing the number of persons employed in any place, in order to

ascertain if such place comes within the definition of a factory according to the meaning and intent of this Act, every such workman, child, young girl, or woman shall be taken into account:

"Inspector" means the Inspector appointed by order of the Lieutenant-Governor in Council under the authority of and for enforcing the provisions of this Act in and for the locality in reference to which such expression applies, and which locality shall be that designated in the order:

"Employer" means any person who, in his own behalf or as the manager, superintendent, overseer, or agent for any person, firm, company, or corporation, has charge of any factory and employs persons therein:

"Week" means the period between midnight on Sunday night and midnight on the succeeding Saturday night:

"Child" means a male person under the age of fourteen years and a female person under the age of fifteen years:

"Young girl" means a girl of the age of fifteen years or upwards and under the age of eighteen years:

"Woman" means a woman of eighteen years of age or upwards:

"Parent" means and includes a parent or guardian of, or a person having the legal custody of or control over, or having direct benefit from the wages of, a child or young girl:

"Court of summary jurisdiction" means the Justices of the Peace or Stipendiary Magistrate or Police Magistrate, as the case may be, to whom jurisdiction is given by this Act to hear and determine prosecutions under this Act:

"Mill-gearing" comprehends every shaft, whether upright, oblique, or horizontal, and every wheel, drum, or pulley by which the motion of the first moving-power is communicated to any machine appertaining to a manufacturing process.

#### Application of Act.

3. Where children, young girls, or women are employed at home, that is to say, in a private house, place, or room used as a dwelling, wherein neither steam, water, nor other mechanical power is used in aid of the manufacturing process carried on there, and wherein the only persons employed are members of the same family dwelling there, this Act shall not apply.

#### Employees.

4. No child or children shall be employed in any factory, except in the business of canning fish and the work incidental thereto, and fruit-packing, as provided for in section 6 of this Act:

(a) A factory in which the provisions of this section are not complied with by the employer shall be deemed to be kept unlawfully and so that the health of any child therein employed is likely to be permanently injured, and such employer shall, because thereof, be deemed to be guilty of a contravention of the provisions of this Act.

5. The Lieutenant-Governor in Council may from time to time, by order, notice of which shall be published in the Gazette, prohibit the employment of girls under the age of eighteen years and of boys under the age of sixteen years in factories, the work in which is deemed by the Lieutenant-Governor in Council to be dangerous or unwholesome.

6. Children may be employed in the business of canning or curing fish or fruit-packing, and the work incidental thereto, but only during the time of the several salmon-runs and runs of other classes of fish and during the respective fruit seasons: Provided further that the limitations upon the hours of labour, the hours of commencement and cessation of work, as set forth in this Act, shall not be binding upon the employers of any child, young girl, or woman in the business of canning or curing fish or fruit-packing within the time or times aforesaid, but in all other respects this Act shall be applicable to the employers of labour in the business of fish canning or curing, and the canneries operated in connection with any such business.

7. If a person is found in a factory except at meal-times or while all the machinery of the factory is stopped, or for the sole purpose of bringing food to the persons employed in the factory, such person shall, until the contrary is proved, be deemed for the purpose of this Act to have been then employed in the factory:

(a) Yards, playgrounds, and places open to the public view, waiting-rooms and other rooms belonging to the factory in which no machinery is used or manufacturing process carried on, shall not be taken to be any part of the factory within the meaning of this section.

8. A young girl or woman who works in a factory, whether for wages or not, either in the manufacturing process or handicraft, or in cleaning any part of the factory used for any manufacturing process or handicraft, or in cleaning or oiling any part of the machinery, or in any other kind of work whatsoever incidental to or connected with the manufacturing process or handicraft or connected with the article made, or otherwise

the subject of the manufacturing process or handicraft therein, shall, save as otherwise provided by this Act, be deemed to be employed in such factory within the meaning of this Act; and for the purpose of this Act an apprentice shall be deemed to work for hire.

9. When an employer has served on an inspector notice of his intention to conduct his factory on the system of not employing children or young girls therein, the factory shall be deemed for all purposes of this Act to be conducted on the said system until the employer changes it, and no change shall be made until the employer changes it, and no change shall be made until the employer has served on the inspector notice of his intention to change the system, and until the change a child, young girl, or young girls employed in a factory shall be deemed to be employed contrary to the provisions of this Act; a change in the said system shall not be made oftener than once in every three months, unless for special cause allowed in writing by the inspector.

10. Nothing in this Act shall extend to any person, being a mechanic, artisan, or labourer, who shall be temporarily working only in repairing either the machinery in or part of a factory.

#### Regulations respecting Female Employees.

11. It shall not be lawful to employ in a factory any young girl or woman, so that the health of such young girl or woman is likely to be permanently injured, and whoever so employs any young girl or woman shall, upon summary conviction thereof, incur and be liable to imprisonment in the common jail of the judicial district wherein the offence has been committed for a period not exceeding six months, or to a fine of not more than one hundred dollars with costs of prosecution; and in default of immediate payment of such fine and costs, then to imprisonment as aforesaid.

12. To employ in a factory any young girl or woman shall be deemed to be unlawful and to be employing so that the health of such young girl or woman is likely to be permanently injured, if in that factory there is any contravention of the following provisions of this section, that is to say:—

(a) It shall not be lawful for a young girl or woman to be employed for more than eight hours in one day, nor more than forty-eight hours in any one week, unless a different apportionment of hours of labour per day be made for the sole purpose of giving a shorter day's work on Saturday.

(b) In every factory the employer shall allow every young girl and woman therein employed not less than one hour at noon of each day for meals, but such hour shall not be counted as part of the time herein limited with respect to the employment of young girls and women:

(c) If the inspector so directs in writing, the employer shall not allow any young girl or woman to take meals in any room wherein any manufacturing process is then being carried on. And if the inspector so directs in writing, the employer shall, at his own expense, provide a suitable room or place in the factory, or in connection therewith, for the purpose of a dining and eating room for the persons employed in the factory.

13. Subject to any regulations which may be made in that behalf by the Lieutenant-Governor in Council, it shall be lawful for the inspector,—

(a) Where any accident, which prevents the working of any factory, happens to the motive power of any machinery; or

(b) Where, from any other occurrence beyond the control of the employer, the machinery, or any part of the machinery, of any factory cannot be regularly worked; or

(c) Where the customs or exigencies of certain trades require that young girls or women working in a factory, or in certain processes in a factory, shall be employed for a longer period than as herein above provided,—

on due proof to his satisfaction of such accident, occurrence, custom, or exigency of trade, to give permission for such exemption from the observance of the foregoing provisions of the Act as will, in his judgment, fairly and equitably to the proprietors of, and to the women and young girls in, such factory make up for any loss of labour from such accident or occurrence, or meet the requirements of such custom or exigency of trade.

14. In the case of the inspector permitting such exemption as in the last preceding section mentioned,—

(a) No woman or young girl shall be employed before the hour of seven o'clock in the morning nor after the hour of eight o'clock in the evening; and

(b) The hours of labour for women and young girls shall not be more than nine in any one day, nor more than fifty-four in any one week; and

(c) Such exemption shall not comprise more than thirty-six days, in the whole, in any twelve months; and in reckoning such period of thirty-six days every day on which any young girl or woman has been employed overtime shall be taken into account; and

(d) During the continuance of such exemption, there shall, in addition to the hour of the noonday meal provided for by the twelfth section of this Act, be allowed to every



woman and young girl so employed in the factory on any day to an hour later than seven of the clock in the afternoon not less than forty-five minutes for another or evening meal, between five and eight of the clock in the afternoon; and

(c) In every factory to, or with respect to, which any such permission for exemption is so given there shall, in compliance with the provisions of the sixteenth section of this Act, be affixed a notice specifying the extent and particulars of such exemption.

15. When, under the exemptions allowed herein, any young girl or woman is employed in any factory on any day for a longer period than is allowed herein, the duration of such employment shall be daily recorded by the employer in a register, which shall be in such form as may be required by any regulations made in that behalf by the Lieutenant-Governor in Council, or, until such form is provided, in the form given by this Act.

16. Notice of the hours between which young girls or women may be employed shall be made in such form as may be required by the regulations made in that behalf by the Lieutenant-Governor in Council or until such form is provided, in the form given by this Act, and shall be signed by the inspector and by the employer, and shall be hung up, during the period affected by such notice, in such conspicuous place or places in the factory as the inspector requires.

17. A young girl shall not be allowed to clean any part of the machinery in a factory while the same is in motion.

18. A young girl or woman shall not be allowed to clean such part of machinery in a factory as is mill-gearing while the same is in motion.

19. A young girl shall not be allowed to work between the fixed and traversing part of any self-acting machine while the machine is in motion.

20. A young girl or woman, allowed by any employer to clean or work in contravention of any of the last three preceding sections, shall be deemed to be employed by him contrary to the provisions of this Act, and such employer shall be deemed to have contravened the said provisions.

#### Provisions for insuring Health and Safety.

21. Every factory shall be kept in a cleanly state and free from effluvia arising from any drain, privy, or any nuisance.

22. A factory shall not be so overcrowded while work is carried on therein as to be injurious to the health of the persons employed therein, and a notice shall be posted in every room specifying the number of employees who shall be allowed to work in such room.

23. Every factory shall be ventilated in such a manner as to render harmless, so far as reasonably practicable by ventilation, all the gases, vapours, dust, or other impurities generated in the course of the manufacturing process or handicraft carried on therein that may be injurious to health.

24. In every factory there shall be kept provided a sufficient number of privies, earth or water closets, and urinals for the employees of such factory; such closets and urinals shall at all times be kept clean and well ventilated, and separate sets thereof shall be provided for the use of the male and female employees, and shall have separate approaches and entrances.

25. A factory in which there is a contravention of any of the last four preceding sections, or of the regulations made for the enforcement of any of the same, shall be deemed to be kept unlawfully and so that the health of any person employed therein is likely to be permanently injured; and the employer shall, because thereof, be deemed to be guilty of a contravention of the provisions of this Act.

26. In every factory where, contrary to the provisions of this Act, there is any omission, act, neglect, or default in relation to any overcrowding, ventilation, drain, privy, earth-closet, ash-pit, water-closet, water-supply, nuisance, or other matter, whereby the health of persons employed in the factory may be affected, the employer shall within a reasonable time take such action thereon as the Inspector, acting under the regulations (if any) made in respect to such subjects, notifies the employer to be proper and necessary.

27. In every factory where any process is carried on by which dust is generated and inhaled by the workers to an injurious extent, if such inhalation can by mechanical means be prevented or partially prevented, the Inspector may, subject to such regulations (if any) as may be made in that behalf, direct that such means shall be provided within a reasonable time by the employer, who in such cases shall be bound so to provide them.

28. A factory in which the provisions of either of the last two preceding sections are not complied with by the employer shall be deemed to be kept unlawfully and so that the health of any person therein employed is likely to be permanently injured, and such employer shall, because thereof, be deemed to be guilty of a contravention of the provisions of this Act.

29. Where two or more persons occupy or use the same room or premises for carrying on any work or business, within the meaning of this Act, and employ in the aggregate



four persons or more, no one of such persons employing so many as four, each of the several employers shall be held responsible for providing proper and sufficient water-closets and other requirements set forth in the last eight preceding sections, which said sections shall apply to each and every such employer, as if they were partners in all the work or business of the said room or premises.

30. The Inspector may, for the purposes of the last nine preceding sections, take with him into any factory a physician, or a health officer, or other officer of the local sanitary authority.

31. It shall not be lawful to keep a factory so that the safety of any person employed therein is endangered or so that the health of any person employed therein is likely to be permanently injured, and whoever so keeps a factory shall, upon conviction thereof, incur and be liable to imprisonment within any common gaol of the judicial district within which the offence was committed for a period of not more than twelve months, or to a fine of not more than five hundred dollars, with costs of prosecution; and in default of immediate payment of such fine and cost, then to imprisonment as aforesaid.

32. In every factory—

(a) All dangerous parts of mill-gearing, machinery, shafting, vats, pans, cauldrons, reservoirs, wheel-races, flumes, water-channels, doors, openings in the floors or walls, bridges, and all other dangerous structures or places shall be, as far as practicable, securely guarded:

(b) No machinery, other than steam-engines, shall be cleaned while in motion, if the Inspector so directs by written notice:

(c) The opening of every hoistway, hatchway, elevator, or well-hole shall be, at each floor, provided with and protected by good and sufficient trap-doors or self-closing hatches and safety-catches, or by such other safeguards as the Inspector directs; and such trap-doors shall be kept closed at all times except when in actual use by persons authorized by the employer to use the same:

(d) All elevator cabs or cars, whether used for freight or passengers, shall be provided with some suitable mechanical device, to be approved by the Inspector, whereby the cab or car will be securely held in the event of accident to the shipper, rope, or hoisting machinery, or from any similar cause:

(e) Any other particulars which any Inspector from time to time considers dangerous, and in regard to which he gives notice to that effect to the employer, shall likewise, as far as practicable, be secured or securely guarded.

33. A factory in which there is a contravention of the last preceding section or of the regulations made for the enforcement of the same shall be deemed to be kept unlawfully and so that the safety of the persons employed therein is endangered.

34. In every factory—

(a) There shall be such means of extinguishing fire as the Inspector, acting under the regulations made in that behalf, directs in writing:

(b) The main inside and outside doors shall open outwardly, and any door leading to or being the principal or main entrance to the factory, or to any tower, stairway, or fire-escape therein, or belonging thereto, shall not be bolted, barred, or locked at any time during the ordinary and usual working hours in the factory.

35. In the case of factories over two stories in height there shall be provided in every room which is above the ground-floor, or in so many of the rooms above the ground-floor as the Inspector in writing certifies to be in his judgment sufficient, a wire or other rope for every window in the room, or for as many windows in the room as the Inspector certifies in writing to be sufficient:

(a) Every such rope shall be not less than three-quarters of an inch in thickness, and of sufficient length to reach from the room in which it is kept to the ground below; and every such window of every room shall be provided with proper, convenient, and secure fastenings and appurtenances to which one end of the rope may be safely secured or fastened:

(b) The said wire or other ropes shall be kept in a coil or other convenient position in the room.

36. Every factory three or more stories in height, in which persons are employed above the second story, unless supplied with a sufficient number of tower stairways with iron doors, shall be provided with a sufficient number of fire-escapes; such fire-escapes shall consist of an iron stairway with suitable railing, and shall be connected with the interior of the building by iron doors or windows, with iron shutters, and shall have suitable landings at every story above the first, including the attic if the attic is occupied as a workroom, and such fire-escapes shall be kept in good repair and free from obstruction or incumbrance of any kind; but any of the requirements of this section may be dispensed with in any factory if the Inspector so directs.

37. A factory or workshop in which there is a contravention of any of the last three preceding sections shall be deemed to be kept unlawfully and so that the safety of any person employed therein is endangered.

38. In case of a fire or accident in any factory, occasioning any bodily injury to any person employed therein, whereby he or she is prevented from working for more than six days next after the fire or accident, a notice shall be sent to the Inspector in writing by the employer forthwith after the expiration of the said six days; and if such notice is not so sent the employer shall be liable to a fine not exceeding thirty dollars.

39. In case of an explosion occurring in a factory, whether any person is injured thereby or not, the fact of such explosion having occurred shall be reported to the Inspector in writing by the employer within twenty-four hours next after the explosion takes place; and if such notice is not so sent the employer shall be liable to a fine not exceeding thirty dollars.

40. Where in a factory any person is killed or is injured from any cause in a manner likely to prove fatal, written notice of the accident shall be sent to the Inspector within twenty-four hours after the occurrence thereof; and if such notice is not so sent the employer shall be liable to a fine not exceeding thirty dollars.

#### Powers of Lieutenant-Governor in Council.

41. The Lieutenant-Governor in Council may from time to time, for the purpose of carrying out this Act,—

(a) Make such rules, regulations, and orders for enforcing its provisions and for the conduct and duties of the inspector as may be deemed necessary:

(b) Appoint inspectors who shall each be paid such salary or compensation as from time to time may be appropriated for the purpose by the Legislature:

(c) Designate and assign, in the order appointing any inspector, the locality in and for which he is to be the inspector under this Act.

(d) By proclamation published in the Gazette, add to or remove from the said schedule A such description of premises as he deems necessary or proper.

42. The Lieutenant-Governor in Council may from time to time appoint female inspectors for the purpose of carrying out this Act, in addition to the other inspectors by law directed.

#### Powers and Duties of Inspectors.

43. The inspector shall, for the purposes of the execution of this Act, and for enforcing the regulations made under the authority hereof, have power to do all or any of the following things, namely:—

(a) To enter, inspect, and examine at all reasonable times, by day or night, any factory and any part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe to be a factory:

(b) To require the production of any register, certificate, notice, or document required by this Act to be kept, and to inspect, examine, and copy the same:

(c) To take with him in either case a constable into a factory in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty:

(d) To make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are complied with, so far as respects the factory and the persons employed therein:

(e) To examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, every person whom he finds in a factory or whom he has reasonable cause to believe to be, or to have been within the then last two preceding months, employed in a factory, and to require such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so examined:

(f) For the purposes of any investigation, inquiry, or examination made by him under the authority of this Act, to administer an oath to and to summon any person to give evidence:

(g) To exercise such other powers as may be necessary for carrying this Act into effect.

(h) (1) To inspect and examine, at all reasonable hours, elevators in factories, hotels, and shops of more than two stories in height, and, by direction of the Attorney-General, to prohibit the use of any such elevator until it has been pronounced by the inspector to be safe for the carriage of passengers:

(2) For the purposes of this subsection such hotel or shop shall be considered a "factory":

(3) For every such inspection the owner or proprietor of such hotel or shop shall pay such fee as may be authorized by the Lieutenant-Governor in Council. 1913, c. 22, s. 2.

44. The employer and his agents and servants shall furnish the means required by the inspector necessary for entry, inspection, examination, inquiry, or the exercise of his powers under this Act in relation to such factory.

45. Every person who wilfully delays the inspector in the exercise of any power under either of the two last preceding sections, or who fails to comply with a requisition or summons of the inspector in pursuance of either of such sections, or to produce any certificate or document which he is required by or in pursuance of this Act to produce, or who conceals or prevents a child, young girl, or woman from appearing before or being examined by the inspector, or attempts so to conceal or prevent a child, young girl, or woman, shall be deemed to obstruct an inspector in the execution of his duties under this Act.

46. Where the inspector is obstructed in the execution of his duties under this Act, the person obstructing him shall be liable to a fine not exceeding thirty dollars; and where an inspector is so obstructed in a factory the employer shall be liable to a fine not exceeding thirty dollars or, where the offence is committed at night, one hundred dollars.

47. (1) The inspector, before entering in pursuance of the powers conferred by this Act, without the consent of the occupier, any room or place actually used as a dwelling as well as for a factory, shall, on affidavit or statutory declaration of facts and reasons obtain written authority to do so from the Lieutenant-Governor in Council, or such warrant as is hereinafter mentioned from a Justice of the Peace, Stipendiary or Police Magistrate.

(2) The affidavit or statutory declaration above mentioned may be inspected or produced in evidence, in all respects the same as an information on oath before a Justice.

(3) A Justice of the Peace, Stipendiary Magistrate, or Police Magistrate, if satisfied by information on oath or statutory declaration that there is reasonable cause to suppose that any enactment of this Act is contravened in any such room or place as aforesaid, may, in his discretion, grant a warrant under his hand authorizing the Inspector named therein, at any time within the period named therein, but not exceeding one month from the date thereof, to enter in pursuance of this Act the room or place named in the warrant and exercise therein the powers of inspection and examination conferred by this Act; and the fines and provisions of this Act with respect to obstruction of the Inspector shall apply accordingly.

48. Every Inspector under this Act shall be furnished with a form of certificate of his appointment, under the hand and seal of the Provincial Secretary or other member of the Executive Council to whom the duty of the administration of this Act may from time to time be assigned, and on applying for admission to a factory shall, if required, produce to the employer the said certificate.

49. The Inspector, during his tenure of office, shall not be competent to give testimony in any civil cause, matter, or proceeding with regard to anything which he has seen or done, or with regard to any information he has obtained, opinion he has formed, or investigation he has made in the discharge of his duties as Inspector; and during said tenure of office he shall not be competent to give testimony in any civil cause, matter, or proceeding as an expert witness with regard to any subject or matter whatsoever.

50. Such annual or other report of the Inspector as the Lieutenant-Governor from time to time directs shall be laid before the Legislative Assembly.

#### Notices.

51. Immediately upon the appointment of the Inspector, due notice of which shall be given in the Gazette, every person occupying any premises and carrying on any business described in this Act as a factory shall, within ninety days from such notice of appointment, serve on the Inspector a written notice containing the name of the factory, the place where it is situated, the address to which he desires his letters to be addressed, the nature of the work, the nature and amount of the moving-power therein, and the name of the firm under which the business of the factory is carried on; and in default shall be liable to a fine not exceeding fifty dollars.

52. Every person shall, within one month after he begins to occupy a factory, serve on the Inspector a written notice containing the name of the factory, the place where it is situated, the address to which he desires his letters to be addressed, the nature of the work, the nature and the amount of the moving-power therein, and the name of the firm under which the business of the factory is to be carried on; and in default shall be liable to a fine not exceeding fifty dollars.

53. There shall be affixed at the entrance of a factory, and in such other parts thereof as the Inspector directs, and be constantly kept so affixed, in the form directed by the Inspector and in such position as to be easily read by the persons employed in the factory,—

(a) Such notices of the provisions of this Act and of any regulations made hereunder as the Inspector deems necessary to enable persons employed in the factory to become acquainted with their rights, liabilities, and duties under this Act:

(b) A notice of the name and address of the Inspector, with a notice calling upon employees or others who may become aware of any contravention of this Act to communicate direct with the Inspector in confidence, and the Inspector receiving such information shall not divulge the name of the informant:

(c) A notice of the clock (if any) by which the period of employment and times for meals in the factory are regulated; and

(d) Every other notice and document (if any) required by this Act to be affixed in the factory.

In the event of a contravention of any provision or requirement of this section, the employer shall be liable to a fine not exceeding twenty dollars.

54. A notice of the name and address of the Inspector shall, in compliance with such directions as the Inspector may give under the provisions of the last preceding section, be affixed in every factory.

55. Any notice, order, requisition, summons, and document under this Act may be in writing or print, or partly in writing and partly in print.

56. Any notice, order, requisition, summons, or document required or authorized to be served or sent for the purposes of this Act may be served and sent by delivering the same to or at any residence of the person on or to whom it is to be served or sent, or, where that person is an employer within the meaning of this Act, by delivering the same, or a true copy thereof, to his agent or to some person in the factory of which he is employer; it may also be served or sent by post by a prepaid letter, and, if served or sent by post, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending it shall be sufficient to prove that it was properly addressed and put into the post; and where it is required to be served on or sent to an employer, it shall be deemed to be properly addressed if addressed to him at the factory in respect of which he is employer, with the addition of the proper postal address, but without naming the person who is the employer.

#### Registers.

57. In every factory the employer shall keep, in the form and with the particulars prescribed by this Act or by any regulation made by the Lieutenant-Governor in Council in that behalf, a register of women and young girls employed in that factory and of their employment, and of other matter required to be kept by the said regulations under this Act; and shall send to the Inspector such extracts from any register kept in pursuance of this Act as the Inspector from time to time requires for the execution of his duties under this Act; and in default thereof such employer shall be liable to a fine not exceeding fifty dollars.

58. Every employer carrying on business within the meaning of this Act who shall subcontract any contract or give out any materials to be made, altered, repaired, or finished, at any other place than at a factory registered under this Act, shall keep a register of all such work given out and the location of the premises where the work is to be performed. Such register shall be subject to the inspection of the Inspector at all times; and he shall, as far as possible, see that such work is performed under proper sanitary conditions.

#### General Provisions.

59. Where in a factory the owner or hirer of a machine or implement moved by steam, water, or other mechanical power, in or about or in connection with which machine or implement children, young girls, or women are employed, is some person other than the employer as defined by this Act, and such children, young girls, or women are in the employment and pay of the owner or hirer of such machine or implement, in any such case such owner or hirer shall, so far as respects any offence against this Act which may be committed in relation to such children, young girls, or women, be deemed to be the employer.

60. The provisions of this Act which relate—

(a) To the cleanliness, or to the freedom from effluvia, or to the overcrowding or ventilation of a factory; and

(b) To young girls and women being, during any part of the times allowed for meals in a factory, employed in the factory or being allowed to remain in any room; and

(c) To the affixing of any notice or abstract in a factory or specifying any matter in the notice so affixed, save and except where such notice is a notice of the name and address of the Inspector; and

(d) To sending of notice of accidents—  
shall not apply where persons are employed at home; that is to say, to a private house, room, or place which, though used as a dwelling, might, by reason of the work carried on there, be a factory within the meaning of this Act, and in which neither steam,

water, nor other mechanical power is used, and in which the only persons employed are members of the same family dwelling there.

61. The provisions of this Act which relate—

(a) To young girls and women being, during any part of the times allowed for meals in a factory, employed in a factory, or being allowed to remain in any room; and

(b) To the affixing of any notice or abstract in a factory or specifying any matter in the notice so affixed, save and except where such notice is a notice of the name and address of the Inspector,—

shall not apply to a factory which is conducted on the system of not employing young girls therein, and the occupier of which has served on the Inspector notice of his intention to conduct his factory upon that system.

62. In any case where the Inspector may instruct an employer to make alterations or additions to a factory, or in respect of any operations carried on therein, conforming with any section of this Act, and the said employer has reason to believe that such changes or additions are needless and not necessary within the spirit of this Act, he may appeal from the decision of the Inspector to the Lieutenant-Governor in Council, who shall judge and decide whether such alterations or additions are necessary.

63. It shall not be lawful for any factory to be open, or to employ any person or persons in or upon the premises, on any holiday, as defined by the "Interpretation Act," without permission therefor in writing signed by the Inspector; and any contravention of this section shall render the employer liable to a fine not exceeding fifty dollars.

#### Penalties and Prosecutions.

64. Every person who wilfully makes a false entry in any register, notice, certificate, or document required by this Act to be left, served, or sent, or who wilfully makes or signs a false declaration under this Act, or who knowingly makes use of any such false entry or declaration, shall, upon conviction thereof, be liable to imprisonment in any common gaol in the judicial district wherein the offence was committed for a period not exceeding six months, or to a fine of not more than one hundred dollars with costs of prosecution; and in default of immediate payment of such fine and costs, then to imprisonment as aforesaid.

65. The parent of any child or young girl employed in a factory in contravention of this Act shall, unless such employment is without the consent, connivance, or wilful default of such parent, be guilty of an offence in contravention of this Act, and shall for each offence, on summary conviction thereof, incur and pay a fine of not more than fifty dollars and costs of prosecution; and, in default of immediate payment of such fine and costs, shall be imprisoned in any common gaol in the judicial district wherein the offence was committed for a period not exceeding three months.

66. If any of the provisions of this Act, or of any regulations, rules, or orders made under the authority thereof by the Lieutenant-Governor in Council, or by any Inspector, are contravened, and no other penalty is herein provided for such contravention, the employer guilty of such contravention shall, upon summary conviction thereof, incur and pay a fine of not more than fifty dollars and costs of prosecution; and, in default of immediate payment of such fine and costs, shall be imprisoned in any common gaol of the judicial district within which the offence was committed for a period not exceeding three months.

67. If a factory is not kept in conformity with this Act, the Court of summary jurisdiction, in addition to or instead of inflicting a fine, penalty, or other punishment upon the employer, may order certain means to be adopted by the employer, within the time named in the order, for the purpose of bringing his factory into conformity with this Act. The Court may also, upon application, enlarge the time so named; but if, after the expiration of the time as originally named or enlarged by subsequent order, the order is not complied with, the employer shall be liable to a fine not exceeding ten dollars for every day that such non-compliance continues.

68. Where the employer is charged with an offence against this Act, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the Court or tribunal at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the Court that he has used due diligence to enforce the execution of the Act, and that the said other person had committed the offence in question without the knowledge, consent, or connivance of him (the employer), the said other person may be summarily convicted of such offence, and the employer shall be exempt from any fine, penalty, or punishment.

69. Where it is made to appear to the satisfaction of the Inspector at the time of discovering the offence that the employer had used all due diligence to enforce the execution of this Act, and also by what person such offence was committed, and also that it was committed without the knowledge, consent, or connivance of the employer and in contravention of his orders, then the Inspector shall proceed in the first instance

against the person whom he believes to have been the actual offender, without first proceeding against the employer.

70. Where an offence, for which an employer is liable under this Act to a fine, has in fact been committed by some agent, servant, workman, or other person, such agent, servant, workman, or other person shall be liable to the same fine, penalty, or punishment for such offence as if he were the employer.

71. A person shall not be liable, in respect of a repetition of the same kind of an offence from day to day, to any larger fine, penalty, or punishment than the highest fine, penalty, or punishment fixed by this Act for the offence, except—

(a) Where the repetition of the offence occurs after an information has been laid for the previous offence; or

(b) Where the offence is one of employing a child, or two or more young girls or women, contrary to the provisions of this Act.

72. All prosecutions under this Act may be brought and heard before any two of His Majesty's Justices of the Peace or any Stipendiary Magistrate or Police Magistrate, and, save where otherwise provided by this Act, the procedure shall be governed by the "Summary Convictions Act."

73. The following provisions shall have effect with respect to summary proceedings for offences and fines under this Act:—

(a) The information shall be laid within two months or, where the offence is punishable at discretion by imprisonment, within three months after the offence has come to the knowledge of the Inspector;

(b) The description of an offence in the words of this Act or in similar words shall be sufficient in law;

(c) Any exception, exemption, proviso, excuse, or qualification, whether it does or does not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information; and if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant;

(d) It shall be sufficient to allege that a factory is a factory within the meaning of this Act;

(e) It shall be sufficient to state the name of the ostensible employer or the title of the firm by which the employer employing persons in a factory is usually known;

(f) A conviction or order made in any matter arising under this Act, either originally or on appeal, shall not be quashed for want of form; and a conviction or order made under this Act by a court of summary jurisdiction, against which a person is authorized to appeal, shall not be removed by *certiorari* or otherwise, either at the instance of the Crown or of any private person, into the Supreme Court, except for the purpose of the hearing and determination of a stated case.

74. Where an alleged child or young girl is, in the opinion of the court, apparently of the age alleged by the informant, it shall lie on the defendant to prove that the child or young girl is not of that age.

75. On the trial of any complaint, proceeding, matter, or question under this Act, the person opposing or defending, or who is charged with any offence against or under any of the provisions of this Act, shall be competent and compellable to give evidence in or with respect to such complaint, proceeding, matter, or question.

76. All fines or penalties in money, imposed and recovered under or in pursuance of this Act, shall be paid by the convicting Justices or Stipendiary Magistrate, as the case may be, to the Inspector, who shall forthwith pay the same over to the Minister of Finance and Agriculture to and for the use of the province.

#### Forms.

77. Unless and until otherwise ordered or directed by any regulation in that behalf made by the Lieutenant-Governor in Council,—

(a) The register mentioned in and required by the fifty-seventh section of this Act shall, so far as the same relates to young girls, be in the Form No. 1 in schedule B to this Act, and, so far as the same relates to women, in the Form No. 2 in the said schedule;

(b) The register mentioned in and required by the fifteenth section of this Act shall be in the Form No. 3 in the said schedule;

(c) On the first page of any register kept by an employer, pursuant to this Act or to any rule, order, or regulation made in that behalf by the Lieutenant-Governor in Council, shall be printed the Form No. 4 in the said schedule, or one to the like effect, and the same shall be properly filled and signed by the Inspector and the employer, when such register is commenced to be kept;

(d) Notice of the hours between which young girls or women are to be employed in any factory, as required by the sixteenth section of this Act, shall be in the Form No. 5 in the said schedule;

(e) Notice to an Inspector, under the thirty-eighth and fortieth sections of this Act, may be in the Form No. 6 in the said schedule;

(f) Notice to an Inspector, under the ninth section of this Act, shall be in such of the Forms No. 7 and No. 8 in the said schedule as the case requires; and

(g) Notice to an Inspector, under the fifty-first section of this Act, shall be given in the Form No. 9 in the said schedule.

## SCHEDULES.

### SCHEDULE A.

#### Section 2.

#### List of Factories.

|  |   |
|--|---|
| Abattoirs.                                 | Knitting factories.                             |
| Agricultural-implement factories.          | Laundries.                                      |
| Bag and sack factories.                    | Laundry, bluing, and washing-crystal factories. |
| Baking-powder and yeast factories.         | Linseed-oil mills.                              |
| Barrel and stove-pipe factories.           | Lithographers' workshops.                       |
| Bicycle factories.                         | Locomotive-works.                               |
| Biscuit factories.                         | Machine-shops.                                  |
| Blanket factories.                         | Marble-works.                                   |
| Boiler factories.                          | Match factories.                                |
| Bookbinding factories.                     | Matting factories.                              |
| Boot and shoe factories.                   | Mattress factories.                             |
| Box factories.                             | Meat-packing establishments.                    |
| Brass foundries.                           | Metal factories.                                |
| Breweries.                                 | Millinery-shops.                                |
| Broom factories.                           | Ornamental-moulding factories.                  |
| Brush factories.                           | Paint-works.                                    |
| Carriage factories.                        | Paper-bag factories.                            |
| Carriage goods (iron) factories.           | Paper-box factories.                            |
| Carriage woodwork factories.               | Patent-fertilizer factories.                    |
| Cartridge factories.                       | Patent-medicine factories.                      |
| Car-shops.                                 | Piano and organ factories.                      |
| Cheese-box factories.                      | Picture-frame works.                            |
| Chemical works.                            | Planing-mills.                                  |
| Cider factories.                           | Plated-metal works.                             |
| Cigar factories.                           | Potteries.                                      |
| Cigar-box factories.                       | Printing and publishing establishments.         |
| Clothing factories.                        | Sail and tent factories.                        |
| Confectionery factories.                   | Sash and door factories.                        |
| Concentrated-egg factories.                | Saw and shingle mills.                          |
| Coopers' workshops.                        | Sewing-machine factories.                       |
| Distilleries.                              | Shirt factories.                                |
| Domestic-utensils factories.               | Show-case factories.                            |
| Dressmaking establishments.                | Skate-works.                                    |
| Dye-works.                                 | Soap-works.                                     |
| Edge-tool factories.                       | Soda-water factories.                           |
| Electric-machinery factories.              | Spice and coffee mills.                         |
| Electrotype factories.                     | Tailor-shops.                                   |
| Elevators.                                 | Tanneries.                                      |
| Envelope factories.                        | Tin-box factories.                              |
| Extracts and essential-oil factories.      | Trunk factories.                                |
| Felt factories.                            | Tub and pail works.                             |
| Flax-mills.                                | Typefoundries.                                  |
| Flour and feed mills.                      | Vinegar-works.                                  |
| Foundries.                                 | Wagon and sleigh factories.                     |
| Furniture factories.                       | Window-shade factories.                         |
| Furriers' workshops.                       | Woollen mills.                                  |
| Galvanized and pressed ironwork factories. |   |
| Gun and small-arm factories.               |   |
| Harness and leather factories.             |   |
| Hosiery factories.                         |   |
| Jams, jellies, and pickle works.           |   |



The following industries were added to Schedule A by Order in Council, 25th February, 1910:—

|                                |                   |
|--------------------------------|-------------------|
| Boat-builders' establishments. | Sugar-refineries. |
| Blacksmith-shops.              | Pulp-mills.       |
| Brickyards.                    | Powder-mills.     |
| Nail factories.                | Cement-works.     |
| Shipyards.                     | Smelters.         |
| Saw-works.                     |                   |

FORM NO. 6.

(Sections 38, 40 and 77.)

THE "FACTORIES ACT."

To , Factories Inspector:

You are hereby notified, pursuant to section 38 (or as the case may be) of the "Factories Act," of the happening of an accident in the factory hereunder mentioned, whereof the following are the particulars:—

1. Name of person injured (or killed)
2. Factory in which accident happened
3. Date of accident.
4. Age of person injured (or killed)
5. Residing on Street in the of
6. Cause of injury (or death)
7. Extent of injury.
8. Where injured (or killed) person sent.
9. Remarks.

Dated this day of , 19 .

(Signature of employer or agent).....

(Forms 1-5 and 7-9 omitted.)

**Fire Escapes on Factories, Shops and Office Buildings.**

Chapter 87 with amendments.—1. This Act may be cited as the Fire-escape Act.

Interpretation.

2. In the construction of this Act—

"Hotel" means and shall include any apartment-house, boarding-house, lodging-house, public-house, or place of refreshment where lodgings are let, furnished, or provided for the public:

"Public building" means and shall include all factories, department stores, mill buildings, printing-offices, schools, hospitals, municipal buildings, theatres, public halls, and all structures used for office purposes;

"Two stories" when applied to a hotel or public building means two of the divisions of the building comprising the space between a floor and the floor or roof next above, exclusive of the division comprising the space between a floor which is wholly below the grade-level of the ground surrounding such building and the floor next above. 1914, c. 29, s. 2.

3. (1) Every owner, lessee, or proprietor of a hotel or public building exceeding two stories in height shall erect or cause to be erected on the outside of such hotel or public building at least one permanent open metal return fire-escape, together with such additional number of such fire-escapes as may be deemed necessary by the officer required by this Act to see that the provisions of the Act are complied with. If there is no fire-escape or the fire-escape in use is not considered sufficient by such officer, he may, by a written order served upon the owner, lessee, or proprietor of any hotel or public building, require one or more fire-escapes to be provided therefor, at such locations and of the style specified in this section; and within thirty days after the service of such order the number of fire-escapes required therein shall be provided and erected:

Provided that if by reason of the default of any owner, upon reasonable notice in this behalf, any lessee or proprietor is compelled to erect a fire-escape under the

provisions of this Act, then the said lessee or proprietor shall have a right of action or set-off against the owner for all actual necessary and reasonable disbursements by him made or incurred by reason of the default of the owner.

(2) Each fire-escape shall connect with each floor above the first, and shall be of sufficient strength, well fastened and secured, and shall have balconies or landings not less than six feet long and three feet wide, guarded by iron railings not less than three feet in height, embracing at least one door or window with sash hung as a door at each story and connected with the interior by easily accessible and unobstructed openings. The balconies or landings shall be connected by iron stairs not less than eighteen inches wide, with steps of not less than six inches tread, placed at a proper slant and protected by a well secured handrail on both sides, and shall have a drop-ladder not less than twelve inches wide reaching from the lower balcony or landing to the ground. A ladder shall extend from the top balcony of every fire-escape to the roof of the building, with a hand-rail on both sides extending at least three feet above the roof and bent over and firmly attached to the roof. The balcony floors of all fire-escapes shall be of metal and not lower than ten inches below the top level of the sills of such openings, which sills shall not be higher than twelve inches above the level of the floor inside the building.

(3) The windows or doors to each landing or balcony of every fire-escape shall be adjusted to readily open so as to give an unobstructed opening at least two feet six inches wide and five feet high, and shall be located as far as possible, consistent with accessibility, from the inside stairways and elevator hatchways or openings, and shall, when possible, connect directly with a hall or corridor, and in any case where such connection is necessarily through a room the doors of such room shall not at any time be locked.

(4) The location of fire-escapes in all buildings shall be conspicuously indicated by placards or finger-signs in all main halls and at the intersections of all cross-halls, and all hotels, factories, workshops, schools, hospitals, assembly halls, theatres, and other buildings requiring fire-escapes, which are occupied at night, shall have all public halls, stairways, and passage-ways properly lighted, and a red light shall be kept burning during the night at the points of egress for each fire-escape; and there shall be kept posted in a conspicuous place in every sleeping room a notice descriptive of the means of escape from the building in case of fire. 1913, c. 24, s. 3.

5. In case any hotel or public building shall be provided with outside stationary or other fire-escapes, differing from what is herein provided for, by means of which, in the opinion of the officer required by this Act to see that the provisions of the Act are complied with, a reasonably safe and convenient means of egress from the apartments or rooms is provided in case of fire, the same shall be deemed a compliance with this Act, so far as relates to all such apartments or rooms.

6. The owner, lessee, or proprietor of every hotel or public building shall, in addition to the notices (if any) which he is now required by law to keep posted up in each of the apartments or rooms of such hotel or public building, also keep posted up therein a notice calling attention to the said fire-escapes, and containing full directions for the use of the same, as well as a description of the outside stairway and the situation and means of egress to the same.

8. In case the owner, lessee, or proprietor of any hotel, church, theatre, hall or public building shall neglect to observe any of the provisions of this Act, he shall be liable, on summary conviction, to a fine for each offence of not exceeding two hundred dollars and costs and not less than twenty dollars and costs; and in default of payment of such fine and costs, to imprisonment, with or without hard labour, for any term not exceeding three months, and not less than one month, and such conviction shall not be a bar to a prosecution for any continuance of such neglect subsequent to such conviction, but such continued neglect shall from time to time constitute a new offence.

9. In all cases where the hotel, church, theatre, hall, or public building is situated within the limits of a municipality, it shall be the duty of the chief officer of the fire department for the municipality, or if there be no such officer, then for the chief of police or head constable for the municipality, to take all necessary proceedings to compel compliance with the provisions of this Act; and in all other parts of the province the like duty is hereby imposed upon all provincial police constables.

10. The officer required by this Act to see that the provisions of this Act are complied with is hereby empowered from time to time, at any time between the hours of ten a.m., and four p.m., on any day except Saturday or Sunday, or any holiday, to enter into and inspect any occupied hotel or public building within the purview of this Act, and shall have access to all parts thereof; and any person who shall wilfully obstruct such officer in the performance of his duty hereunder shall be liable, on summary conviction, to a fine not exceeding one hundred dollars and costs, and not less than twenty dollars and costs; and in default of payment of such fine and costs, to imprisonment, with or without hard labour, for any term not exceeding three months and not less than one month.

### Fire Prevention—Regulation of Explosives.

[Chapter 88 empowers the inhabitants of unincorporated towns and villages to elect three fire wardens annually. The powers of the fire wardens as set forth in section 8 are as follows:—]

8. The fire wardens, or a majority of them, shall have the following powers:—

(a) To visit and inspect, at all reasonable hours, all buildings and erections in the town or vicinity:

(b) To direct and regulate, in the town or its vicinity, the position of stoves, fire-places, or furnaces, chimneys, stovepipes, and smoke-stacks, and the removal, change or alteration of the same or any of them, or the position or condition of them or any of them, and further direct that anything shall be done by way of precaution to avert fire:

(c) Generally to take such steps for the prevention of fire in the town, or to check its spreading, as they may think fit:

(d) To regulate the storing of powder or other explosives and the working of industries or places of a character likely to cause danger from fire:

(e) To compel the owner of any lot situated within the said town, and within two hundred feet of a dwelling-house, to burn or remove all timber, brush, or other growth of an inflammable nature thereon, when in the opinion of the Fire Wardens, or a majority of them, such brush or growth is a menace to the safety of the town from fire: Provided that this subsection shall not apply to trees planted for fruit, shade or ornament:

(f) To forbid the discharge of firearms within the limits of the town, or within such portion of the town as the fire wardens may prescribe:

(g) To forbid the setting fire to standing trees within the limits of the town:

(h) To forbid the setting fire to brush, logs, or refuse within the limits of the town, unless with the written permit of one or more of the fire wardens.

### Inspection and Regulation of Factories—Sanitation.

[Chapter 98, section 2 defines "house" as including factories and other buildings, huts and tents used for human work. Section 7 enumerates in a number of clauses the subjects upon which the Provincial Board of Health may make regulations, among which are the following:—]

(3) The cleansing, purifying, ventilating, and disinfecting of houses, . . . buildings, and places of assembly, by the owners, occupiers and persons having care and ordering thereof;

(4) The inspection of houses and places of assembly, . . .

(7) The inspection, licensing, method of construction, furnishing, equipping and maintaining, cleansing, and disinfecting all slaughter-houses and other places in which animals are killed and their flesh prepared for sale or to be used for food, and all canneries, fish-houses, smoke-houses, and warehouses in which fish are cured, packed, or prepared for sale or to be used as food;

(26) The construction, maintaining, inspecting, cleaning, purifying, ventilating, and disinfecting of . . . barber shops, cold storage buildings, fish shops, butcher shops, bake shops, bake houses, store houses. . . .

(27) For licensing and regulating plumbers;

(28) For regulating the plumbing to be installed in buildings, including the materials to be used therein and the pipes, drains, and all means of connection with sewers and the taps and all apparatus in connection therewith, and the keeping, cleansing and repairing of the same;

### Inspection and Regulation of Construction Camps, etc.—Medical Attendance for Employees.

Chapter 98.—9. (1) The Provincial Board [of Health] may further from time to time make regulations applicable to lumber camps, mining camps, sawmills, railway-construction camps, and other places where labour is employed throughout the province:—

(a) Respecting any particular industry and the conditions under which the same may be carried on for the purpose of preventing nuisances and the outbreak or spread of disease;

(b) For the cleansing, regulating, and inspection of lumbering camps, and of mining camps, and of railway-construction works, and of other places where labour is employed:

(c) For providing for the employment of duly qualified medical practitioners by employers of labour in lumbering camps, and in mining camps, and on railroad construction works, and other works where labour is employed, and for the erection of permanent or temporary hospitals for the accommodation of persons so employed:

(d) For providing for the construction, arrangement, and inspection of houses for the accommodation of men employed in lumbering and mining camps and in railway construction work.

(2) Regulations made under this section may be general in their application, or may be made applicable specially to any particular locality or industry.

66. The Health Officers of any municipality, health district, or outlying district shall in every year, in the months of April or May, visit all logging, lumber, railway, sawmill, and mining camps in their district and examine into the sanitary conditions thereof, and shall also examine the water supply of the said camps.

67. If upon any examination under either of the last two preceding sections the Health Officers find that the premises are in a filthy or unclean state, or that any matter or thing is there which in their opinion may endanger the public health, they, or any two of them, may order the owner or occupant of the premises to cleanse the same and remove what is found there.

### Industrial and Provident Societies.

Chapter 105—4. The societies which may be registered under this Act are societies for carrying on any labour, trade, or handicraft, whether wholesale or retail, including the buying and selling of land, in the funds of which societies no member other than a society registered under this Act shall have or claim an interest exceeding one thousand dollars.

5. With respect to the registry of such societies, the following provisions shall have effect:—

(1) No society can be registered under this Act which does not consist of seven persons at least:

(2) For the purpose of registry, an application to register the society, signed by seven members and the secretary, and two written or printed copies of the rules, shall be sent to the Registrar:

(3) No society shall be registered under a name identical with that which any other existing society is registered, or so nearly resembling such name as to be likely, in the opinion of the Registrar, to deceive the members or the public as to its identity; and no society shall change its name without sanction of the Registrar, or otherwise than is hereinafter provided:

(4) The Registrar, on being satisfied that a society has complied with the provisions as to registry in force under this Act, shall issue to such society an acknowledgment of registry; the acknowledgment of registry shall state the registered name of the society, with the addition of the word "limited":

(5) If the Registrar refuse to register the society, or any rules, the society may appeal from such refusal to the Supreme Court:

(a) The Judges or the Supreme Court may make rules or orders as to the form of appeals and the trying thereof, and otherwise relating thereto:

(6) If the refusal of registry be overruled on appeal, an acknowledgment of registry shall thereupon be given to the society by the Registrar:

(7) The acknowledgment of registry shall be conclusive evidence that the society therein mentioned is duly registered, unless it be proved that the registry of the society has been suspended or cancelled.

### Apprenticeship.

Chapter 107.—15. A parent, guardian, or other person having the care or charge of a minor, or any charitable society being authorized by the Lieutenant-Governor in Council to exercise the powers conferred by this Part of this Act, and having the care or charge of a minor, may by indenture, the minor being male and not under the age of fourteen years, with the consent of the minor, put and bind him as an apprentice to any respectable and trustworthy master-mechanic, farmer, or other person carrying on a trade or calling, for a term not to extend beyond the minority of the apprentice; or in case of a female not under the age of twelve years, with her consent, bind the minor to any respectable and trustworthy person carrying on any trade or calling, or to domestic service with any respectable and trustworthy person, for any term not to extend beyond the age of eighteen years.

16. Where the father of an infant abandons and leaves the child with the mother, the mother, with the approbation of two Justices of the Peace, may bind the child as an apprentice to any person mentioned in the last preceding section, until the child attains the age of twenty-one years in the case of a male, and eighteen in the case of a female; and an indenture to that effect, under the hand and seal of the mother, and countersigned by such Justices, shall be valid; but no child, being male, having attained the age of fourteen years, or being female, having attained the age of twelve years, shall be so apprenticed unless he or she consents.

17. (1) In a city the Mayor, Judge of the County Court, or Police Magistrate, and in a county the Judge of the County Court of the county, may put and bind for the like period to any person mentioned in the last two preceding sections of this Act, with the consent of such person and of the minor, any minor who is an orphan or has been deserted by his or her parents or guardian, or whose parents or guardians have been for the time committed to a common gaol or house of correction, or any minor who is dependent upon public charity for support; and such apprentice and master of such apprentice shall be held in the same manner as if the apprentice had been bound by his or her parent.

(2) In the case of a minor, if a male under the age of fourteen years or if a female under the age of twelve years, who has been deserted by his or her parents or guardian, or whose parents or guardian have been for the time being committed to a common gaol or house of correction, or who is dependent upon public charity for support, the consent of such minor shall not be necessary for the purposes of this section.

18. All wages reserved by any indenture or otherwise to be paid for the service of any minor, shall, if not payable to the parent, be either payable to the minor or to some person for the benefit of the minor.

19. If the master of the apprentice dies, the apprentice, if a male, shall by act of law be transferred to the person (if any) who continues the establishment of the deceased; and such person shall hold the apprentice upon the same terms as the deceased, if alive, would have done.

20. A master may transfer his apprentice, with his consent, to any person who is competent to receive or take an apprentice, and who carries on the same kind of business.

21. Every master shall provide his apprentice, during the term of his apprenticeship, with suitable board, lodging, and clothing, or such equivalent therefor as is mentioned in the indenture, and shall also properly teach and instruct him, or cause him to be taught and instructed, in his trade or calling.

22. Every apprentice shall, during the term of his apprenticeship, faithfully serve his master, shall obey all his lawful and reasonable commands, and shall not absent himself from his service, day or night, without his consent.

#### Complaints.

23. A Judge of the County Court or a Police Magistrate upon complaint made by any minor bound as aforesaid, or by any person on his or her behalf, or by the person to whom the apprentice is bound, may alter the mode in which payment of wages is to be made, by directing payment to the apprentice, or to some other person, in lieu of the manner set out in the indenture; or may, upon proof of gross misconduct or neglect of duty, annul the indenture of apprenticeship or of service, and may compel the person in whose possession, power, custody, or control the indenture is to produce and deliver the same in Court, in order to have the indenture cancelled, or to have the order varying the said indenture indorsed thereon, as the case may require.

24. A County Court Judge or Police Magistrate may, after allowing a reasonable time for production and delivery, issue a warrant for the imprisonment of the person in default, for any term not exceeding six months, unless the indenture or instrument is previously produced and delivered for the purpose aforesaid.

25. A Judge of the County Court or Police Magistrate, upon complaint of any minor over whom a person has been appointed guardian under the sixth section of this Act, or of any person on behalf of the minor, and upon proof of gross misconduct or neglect of duty on the part of the guardian, may emancipate the minor from the authority of the said guardian.

26. A Judge of the County Court in any case, and a Police Magistrate in case the apprenticing of a child or the appointment of a guardian under this Act has not been by the parent of the child, may, on the application of either the parent or child, cancel the indenture of apprenticeship, if satisfied that the same was injudiciously or improperly entered into; or cancel the appointment of a guardian, and restore the child to the parent, if satisfied that the parent is a fit and proper person to take charge of the child; and in case such cancellation of the guardianship is on the application of the parent, the authority of the parent shall revive as if no guardian had been appointed.

27. Any Justice of the Peace, Mayor, or Police Magistrate, on complaint made before him on oath by an apprentice against his master for refusing him necessary provisions, or for misusage, cruelty, or ill-treatment, shall summon the master to appear before him to answer the complaint, and shall thereupon hear and determine the complaint, and on conviction shall levy on the offender a fine not exceeding twenty dollars, and issue a warrant of distress to collect the same and the costs, and in default of satisfaction of the distress shall imprison the offender in any common gaol for a term not exceeding one month, unless the fine and costs be sooner paid.

28. Any justice, Mayor, or Police Magistrate shall also, on complaint of a master against his apprentice for refusing to obey his commands, or for waste or damage to property, or for any other improper conduct, cause the apprentice to come before him, and shall hear and determine the complaint, and on conviction order such apprentice to be imprisoned in a common gaol or house of correction for a term not exceeding one month.

29. In case an apprentice absents himself from his master's service or employment before the time of his apprenticeship expires, he may at any time thereafter, if found in British Columbia, be compelled to serve his master for so long a time as he so absents himself, unless he makes satisfaction to his master for the loss sustained by such absence.

30. (1) In case an apprentice refuses to serve as above required or to make such satisfaction to his master, or to obey the lawful commands of his master, or in any other way refuses or neglects to perform his duty to his master, and if the master, or his overseer or agent, complains on oath to a Justice of the Peace or Police Magistrate, either in the country or city where the master resides, or in any county or city where the absconding apprentice is found, such Justice or Police Magistrate may cause the apprentice to be summoned to appear or be apprehended and brought before him, or before some other Justice of the Peace; and such Justice, upon hearing the complaint, shall determine what satisfaction shall be made by the apprentice to the master.

(2) In case the apprentice does not give or make such satisfaction immediately, or in case the satisfaction is of such a nature as not to admit of immediate performance, if he does not give sufficient security to make such satisfaction, then the Justice or Police Magistrate may commit the apprentice to the common gaol or house of correction of the county or city for any time not exceeding three months; and such imprisonment shall not release the apprentice from the obligation to make up the lost time to the master.

31. Where the apprentice has not left the province, or, having left the province, has returned thereto, the master shall not proceed against the apprentice under this Act, except within one year next after the expiration of the term for which the apprentice contracted to serve, or next after his return, as the case may be.

32. Any person who knowingly harbours or employs an absconding apprentice shall pay to the master of the apprentice the full value of the apprentice's labour; and such value shall be what the master would have received from the labour and service of the apprentice if he had continued faithfully in his master's service; and the master may recover the same in any court having jurisdiction where the apprentice has been employed, or where his master resides.

33. If an apprentice becomes insane, or is convicted of an indictable offence, or is sentenced to the Provincial Industrial School or to the penitentiary, or absconds, his master may, within one month thence next ensuing, but not afterwards, avoid the indenture of apprenticeship from the time he gives notice in writing of his intention to do so to the other parties to the indenture, either by serving them with the notice or a copy thereof, or by inserting the same in the Gazette or in a newspaper of the county or city where the master's establishment is situated.

34. The Judge, Police Magistrate, or Justice, as the case may be, may, on any complaint or other proceeding under this Act, make such order as to payment of costs as appears just.

### Industrial Disputes—Arbitration and Conciliation.

Chapter 123.—1. This Act may be cited for all purposes as the Labour Conciliation and Arbitration Act.

#### Interpretation.

2. In the construction and for the purposes of this Act, the expression—

“Lieutenant-Governor” means the Lieutenant-Governor with the advice of the Executive Council;

“Minister” means the responsible Minister charged with the administration of this Act;

“Prescribed” means prescribed by any regulations made under this Act;

“Department” means the office of the Minister.

#### Application of Act.

3. This Act shall apply throughout the province, and its provisions shall extend to employers generally, and to employees generally, whether said employees are non-union or are members of associations of organized labour.

### Appointment of Commissioners.

4. The Lieutenant-Governor is hereby authorized to appoint the provincial secretary the minister to act as Commissioner of Councils of Labour Conciliation and Arbitration, and should necessity therefor arise, the Lieutenant-Governor may appoint a deputy commissioner. The position of deputy commissioner may be held separately or in conjunction with a position in the public service, and may be held either temporarily or permanently.

5. It shall be the duty of the commissioner or deputy commissioner to receive and register and, subject to the provisions of this Act, to deal with all applications lodged by employers or employees, or on their behalf, for reference to a Council of Conciliation, or to a Council of Arbitration, of any dispute or claim within the meaning of this Act; to convene any such council for the purpose of dealing with any such dispute or claim; to keep a register, in which shall be entered the particulars of all references and settlements of disputes and claims made to and by Councils of Conciliation, and of all references and awards made to and by Councils of Arbitration; and generally to do all such things and take all such proceedings as may be required in the performance of his duties, in accordance with any regulations made by the Lieutenant-Governor under this Act. The commissioner or deputy commissioner shall be the officer to issue all summonses to witnesses to attend to give evidence, with or without the production of papers or documents, before any such council, and to issue all notices and perform all other acts in connection with the sittings of any such council in the prescribed manner. The Commissioner (or the Deputy Commissioner, if the Lieutenant-Governor shall so direct) shall have power to issue subpoenas, administer oaths, and take testimony in all matters relating to the duties herein required by said Council; such testimony to be taken in such place or places as he may deem desirable.

### Councils of Conciliation.

6. Councils of Conciliation shall consist of four conciliators, who shall be appointed by the Lieutenant-Governor from time to time upon the recommendations or nominations of disputants; two by each party to any dispute or claim, by or on behalf of any employer, or the employees of any employer, for the purpose of dealing specially with any reference of such dispute or claim.

7. All references to a Council of Conciliation shall be made pursuant to regulations to be made under this Act:—

(1) When one party to a dispute or claim makes application to have it referred to a Council of Conciliation, and names two conciliators for such purpose, then the other party to the dispute or claim shall within seven days of being so requested, if desirous of obtaining the services of said Council, name two conciliators to consider the reference conjointly with the conciliators named by the first party;

(2) In the event of such other party failing or refusing to name conciliators within the prescribed time, then the proposed reference for conciliation shall be voided and the applicant for conciliation shall be informed thereof; but new application for a reference may be made by either party to the dispute.

8. Every member of any such Council of Conciliation, whilst engaged in the adjustment of any dispute, shall be remunerated for his services in a manner and according to a scale of payment to be fixed and provided for by regulations to be passed under this Act.

9. If any member of any such Council shall be disabled, from illness or any other cause, from attending to his duties as such member, the Lieutenant-Governor, on the recommendation of the proper recommending authorities, may appoint a person to act in his place for the period of such disability. And such person shall, upon such appointment, be deemed, for all purposes of this Act, to be a member of such Council during such period.

### Procedure for Conciliation.

10. Any dispute or claim within the meaning of this Act may be referred for settlement to a Council of Conciliation in manner following:—

(1) The parties to such dispute or claim may jointly agree, in the prescribed manner, to refer such dispute or claim for settlement to a Council of Conciliation, and may each submit the names of conciliators;

(2) Either party to such dispute or claim may, in the prescribed manner, lodge an application with the Commissioner requesting that such dispute or claim be referred for settlement to a Council of Conciliation. On such application being lodged, the other party to the dispute may, on request, name two conciliators;

(3) The Commissioner, on receipt of any such application and agreement for a reference to a Council of Conciliation accompanied by the names of persons nominated for conciliators, shall forthwith appoint conciliators to consider the reference, as also the time and place where such reference shall be considered.



(4) The members of the Council of Conciliation shall furnish the Commissioner with a report of the result of every such reference, certified under their hands, together with all papers relating to the reference, which report and papers shall be filed of record in the offices of the Department; and they shall be at the disposition of the Council of Arbitration, which may consider the reference on its being transmitted thereto.

11. If the Council of Conciliation shall, by writing signed by the members thereof, report to the Commissioner or Deputy Commissioner that they have been unable to bring about any settlement or adjustment of any dispute or claim referred to them, satisfactory to the parties thereto (and it shall be the duty of such Council in every such case to make such report), the Commissioner on the receipt of such report shall transmit a copy (certified by him) of such report to each party to the dispute or claim, whereupon both parties conjointly may, in the prescribed manner, require the Commissioner to refer the said dispute or claim to the Council of Arbitration for settlement by award. The Commissioner shall thereupon send a copy of such report to the President of the Council of Arbitration, and shall file of record in the offices of the Department all the papers in the reference, which papers shall be at the disposition of the President of the Council of Arbitration.

#### The Council of Arbitration.

12. There shall be a Council of Arbitration for the settlement by award of disputes and claims pursuant to this Act:

(1) Such Council shall have a seal bearing an appropriate device thereon, to be settled by the Lieutenant-Governor, and shall consist of three members, who shall be appointed from time to time by the Lieutenant-Governor in the following manner, namely: The conciliators shall, prior to considering any reference to the Council of Conciliation, nominate two arbitrators, one to represent employers and one to represent employees, to act as a Council of Arbitration in the event of an amicable settlement not resulting from the reference to the Council of Conciliation, and a decision to refer to arbitration being made;

(2) The third member of the Council of Arbitration (who shall be President) shall be appointed by the Lieutenant-Governor on the nomination, within four days after their appointment, of the two arbitrators first named, and their nominee therefor shall be one of the Judges of the Supreme Court;

(3) In case of failure to do so on the part of the said two members, then the Lieutenant-Governor shall appoint the President;

(4) As soon as practicable after a full Council shall have been appointed by the Lieutenant-Governor, the parties to the dispute shall be informed thereof by the Commissioner or the Deputy Commissioner and the reference to arbitration proceeded with in terms pursuant to regulations to be made under this Act.

13. Every member of a Council of Arbitration shall be remunerated for his services in such manner and according to such rate of payment as the Lieutenant-Governor shall appoint, but subject to legislative provision being made therefor.

14. (1) Any vacancy in such Council arising through the death, resignation, or disqualification, or the cancellation of the appointment of any member thereof, shall be filled by the Lieutenant-Governor for the term of office, or the residue of such term (as the case may be), in accordance with the respective methods prescribed by this Act.

(2) The Lieutenant-Governor may appoint, with the consent of the recommending authorities, or, if they fail to nominate any person within four days after such vacancy arises, of his own accord, a person to be Acting President of the Council of Arbitration in case the President of such Council shall be unable to act as such from illness or other temporary disability; and such Acting President shall, upon such appointment, have all the powers and perform all the duties conferred and imposed by this Act upon the President.

(3) If any member of such Council, other than the President, shall, from illness or from any other disability howsoever arising, be unable to perform the duties of his office in respect to any dispute or claim hereunder, the parties thereto may consent, in writing under their respective hands, to the appointment by the Lieutenant-Governor of a member nominated to act for and in the place of the member during such disability; and the Lieutenant-Governor may appoint the person so nominated, who shall thereupon be deemed a member of such Council for all purposes relating to such dispute or claim, and to the hearing and determination thereof.

15. In any case where a Council of Conciliation has, upon a reference to it of any dispute or claim under this Act, been unable to bring about a settlement or adjustment of the same, and thereupon such dispute or claim has, pursuant to the provisions hereinbefore contained, been referred to a Council of Arbitration for its award, it shall be lawful for the members of such Council of Conciliation, subject to the consent in writing of both parties to the said dispute or claim having first been obtained, to sit as assessors upon such reference to the Council of Arbitration, two members of the

Council of Conciliation on behalf of each such party: Provided always that no such assessor shall take any part in the hearing or determination of the reference, other than as an assessor sitting to inform the Council of Arbitration when called upon to do so, and that no such member sitting as an assessor shall be entitled to more than half the prescribed fees for so sitting.

16. Any dispute or claim within the meaning of this Act may be referred to a Council of Arbitration for its hearing and determination in any of the following ways:—

(1) On application in the prescribed manner to the Commissioner by both parties to a dispute or claim, which, having been referred to a Council of Conciliation, has not been settled or adjusted by such Council;

(2) On application in like manner to the Commissioner by both parties to a dispute or claim within the meaning of this Act, which has not been so referred as aforesaid:

Provided that if the award of the Council of Arbitration shall not be complied with or carried out by the parties to any dispute or claim as aforesaid, or for any reason shall have proved abortive, the parties to the reference or either of them shall not thereby be precluded from referring the same to the Council of Conciliation, or from making a second reference to such council where a former reference has already been made to it.

17. In the event of an application for a reference to a Council of Arbitration under conditions of subsection (2) of the last preceding section, then the parties to the dispute shall make direct recommendations for appointment of the two arbitrators to represent employers and employees respectively, and such two arbitrators shall nominate the president in the same manner as provided for the selection of the president by a Council of Conciliation.

18. The Council of Arbitration shall sit and conduct its proceedings as in open court, and in making its decisions shall be governed as far as practicable by the principles of equity and good conscience: Provided that no party to any proceedings either before the Council of Conciliation or the Council of Arbitration shall be represented by counsel or attorney or by any paid agent other than one or more of the persons between whom the dispute or claim has arisen.

19. The award of the Council of Arbitration shall be made by the president within seven days after such council shall have completed its sittings for the hearing of any reference, and shall be by and under the hands of a majority of the members of the council, and the official seal of the council shall be attached thereto. Every such award shall be published in the Gazette and in one or more newspapers circulating in the district within which the claim or dispute, the subject of such award, arose. A copy of the award certified under the hand of the president of the said council shall be deposited in the office of the provincial secretary, and shall be open to inspection, without charge, during office hours.

20. Either party to a reference to the Council of Arbitration may, at any time before award made, by writing under the hands of such party in the prescribed manner, agree to be bound by the award of the council upon such reference, in the same manner as parties are bound upon an award made pursuant to a reference to arbitration or the order of the Supreme Court or of any judge thereof. Every agreement so to be bound shall be laid before the other party to the reference by the commissioner or deputy commissioner, and if such other party also agree in like manner to be bound by the said award, then the said award may be made a rule of the Supreme Court on the application of either party.

#### General and Miscellaneous Provisions.

21. It shall be lawful for the commissioner or deputy commissioner, and he is hereby authorized, at the request in writing of any member of a Council of Conciliation or of a Council of Arbitration, to summon any witness or witnesses to appear and give evidence on oath or affirmation, as may be necessary, before such council respectively at the time and place appointed for hearing and determining any dispute or claim under this Act (which time and place shall be specified in such summons); and if any person so summoned shall not appear before such council at the time and place specified in such summons, or give some reasonable excuse for default, or appearing according to such summons shall not submit to be examined as a witness and give evidence before such council touching the matter of such dispute or claim, provided reasonable travelling expenses have been tendered to such witness by the party at whose instance the summons is issued, then it shall be lawful for any justice of the peace, and he is hereby authorized (proof on oath in the case of any person not appearing according to such summons, having been first made before such justice of the due service of such summons on every such person by delivering the same to him, or by leaving the same at the usual place of abode of such person), to impose a penalty not exceeding twenty dollars upon such person, to be recovered in a summary way before any two justices of the peace.

22. A claim or dispute under this Act shall include any matter as to which there is a disagreement between any employer and his employees.

23. No claim or dispute shall be the subject of conciliation or arbitration under this Act in any case in which the employees affected by such claim or dispute shall be fewer in number than fifteen.

24. In every case referred to a Council of Arbitration, such Council shall have power to require any party to the claim or dispute so referred to name not more than three persons, who, upon their consent in writing, shall for all the purposes of the reference be taken to represent such party.

25. The Lieutenant-Governor may make regulations for the purpose of giving effect to any of the provisions or requirements of this Act; and all such regulations not being inconsistent with this Act shall have the full effect of law on publication in the *Gazette*. Every such regulation shall be laid before the Legislature within fourteen days after it has been published in the *Gazette*, if the Legislature be then in session; but if not, or if the Legislature be in recess, then such regulation shall be laid before it within fourteen days from the date of the first day of the ensuing session or reassembling of the Legislature.

26. All expenses connected with the administration of this Act not hereinbefore provided for, exclusive of the expenses of the parties and witnesses concerned in any dispute or matter referred either to a Council of Conciliation or a Council of Arbitration, shall be defrayed from such annual appropriations as the Legislature shall make in that behalf.

#### **Hours of Labour—Eight Hour Day for Smelter Workmen.**

Chapter 124.—1. This Act may be cited as The Labour Regulation Act.

2. No person shall be employed in or about any smelter, sorting, handling, removing, or smelting ores, slag, or matte in any stage of preparation, for a longer period than eight hours in any twenty-four hours, except that on days when shifts change they may be employed for whatever longer period may be necessary to make the change.

3. Any owner, agent, or manager, or any one acting on their behalf, employing any workman or person in contravention of this Act shall be liable to a penalty not exceeding one hundred dollars nor less than twenty dollars for each workman or person so employed, and any workman or person so working for a longer period than specified in the last preceding section, shall be liable to a penalty not exceeding one hundred dollars nor less than twenty dollars.

4. Twenty-four hours, for the purpose of this Act, shall mean from midnight to midnight.

#### **Employment of Labour on Subsidized Works.**

Chapter 125.—1. This Act may be cited as The Subsidized Works Labour Regulation Act.

2. Notwithstanding anything contained in any Act of the Legislature enacted after the twenty-first day of June, 1902, unless future enactments shall expressly exclude the operations of this Act, the Lieutenant-Governor in Council shall not grant aid by money, securities, or lands of the province, or a right-of-way over lands of the province, to any person, firm, or corporation, in respect of any railway or other work to be constructed by such person, firm, or corporation, until such person, firm or corporation shall have entered into an agreement with the Lieutenant-Governor in Council as to the employment of labour upon or in connection with said railway or other work, upon such terms and conditions as to the Lieutenant-Governor in Council shall seem meet and proper, and shall have given the Lieutenant-Governor in Council satisfactory security, by bond or deposit of money, that the terms of said agreement shall be strictly adhered to.

#### **Earnings of Married Women.**

Chapter 152.—7. Every woman who marries or has married after the seventh day of April, 1887, shall be entitled to have and to hold as her separate property, and to dispose of in manner aforesaid, all real and personal property which shall belong to her at the time of marriage, or shall be acquired by or devolve upon her after marriage, including any wages, earnings, money and property gained or acquired by her in any employment, trade, or occupation in which she is engaged, or which she carries on separately from her husband, or by the exercise of any literary, artistic, or scientific skill.

8. Every woman married before the seventh day of April, 1887, shall be entitled to have and to hold and to dispose of in manner aforesaid as her separate property all real and personal property, her title to which, whether vested or contingent, and whether in possession, reversion, or remainder, shall accrue after the said seventh day of April, 1887, including any wages, earnings, money, and property so gained or acquired by her as aforesaid.

# Employment of Labour—General Provisions.

Chapter 153 with amendment.—1. This Act may be cited as the Master and Servant Act.

## Respecting Contracts.

2. No voluntary contract of service or indentures entered into by any parties shall be binding on them or either of them for a longer time than a term of nine years from the day of the date of such contract.

3. It shall be lawful in any trade, calling, business, or employment for an agreement to be entered into between the workman, servant, or other person employed, and the master or employer, by which agreement a defined share in the annual or other net profits or proceeds of the trade or business carried on by such master or employer may be allotted and paid to such workman, servant, or person employed, in lieu of or in addition to his salary, wages, or other remuneration; and such agreement shall not create any relation in the nature of partnership, or any rights or liabilities of copartners, any rule of law to the contrary notwithstanding; and any person in whose favour such agreement is made shall have no right to examine into the accounts, or interfere in any way in the management or concerns of the trade, calling, or business in which he is employed under the said agreement or otherwise; and any periodical or other statement or return by the employer of the net profits or proceeds of the said trade, calling, business, or employment on which he declares and appropriates the share of profits payable under the said agreement shall be final and conclusive between the parties thereto, and all persons claiming under them respectively, and shall not be impeachable upon any ground whatsoever.

4. Every agreement of the nature mentioned in the last preceding section shall be deemed to be within the provisions of this Act, unless it purports to be excepted therefrom, or this may otherwise be inferred.

5. All agreements or bargains, verbal or written, between masters and journeymen, or skilled labourers, in any trade, calling, or craft, or between masters and servants or labourers, for the performance of any duties or service of whatsoever nature, shall, whether the performance has been entered upon or not, be binding on each party for the due fulfilment thereof; but a verbal agreement shall not exceed the term of one year.

6. No tavern-keeper or boarding-house keeper shall keep the wearing-apparel of any servant or labourer in pledge for any expenses incurred to a greater amount than six dollars, and on payment or tender of such sum, or of any less sum due, such wearing-apparel shall be immediately given up, whatever be the amount due by such servant or labourer; but this is not to apply to other property of the servant or labourer.

7. If after the termination of an engagement between master and servant any dispute arises between them in respect of the term of such engagement, or of any matter appertaining to it, the Justice or Justices of the Peace who receive the complaint shall be bound to decide the matter in accordance with the provisions of this Act, and as though the engagement between the parties still subsisted; but proceedings must be taken within one month after the engagement has ceased.

## Summary Proceedings before Justices.

8. Any one or more of His Majesty's Justices of the Peace may receive the complaints upon oath of parties complaining of any contravention of the preceding provisions of this Act, and may cause all parties concerned to appear before him or them, and shall hear and determine the complaint in a summary and expeditious manner.

9. Complaints against any person under this Act may be prosecuted and determined in any country in which the person complained against is found.

10. Any one or more of such Justices, upon oath of any such servant or labourer against his master or employer concerning any non-payment of wages, may summon such master or employer to appear before him or them at a reasonable time to be stated in the summons, and he or they or some other Justice or Justices shall, upon proof on oath of the personal service of such summons, examine into the matter of the complaint, whether the master or employer appears or not; and upon due proof of the cause of complaint the Justice or Justices may discharge such servant or labourer from the service or employment of such master, and may direct payment to him of any wages found to be due, not exceeding the sum of fifty dollars, and the said Justice or Justices shall make such order for payment of the said wages as to him or them seems just and reasonable, with costs; and in case of non-payment of the same, together with the costs, for the space of twenty-one days after such order has been made, such Justice or Justices shall issue his or their warrant of distress for the levying of such wages, together with the costs of conviction and of the distress.

11. Any person who thinks himself aggrieved by any such conviction or order for the payment of wages, or by any order of dismissal from service or employment, or any order or decision of any Justice or Justices under this Act, may appeal in the same

manner as is provided in the "Summary Convictions Act"; and in case of dismissal of the appeal or affirmance of the conviction, order, or decision, the Court appealed to shall order and adjudge the offender to be punished according to the conviction, or shall enforce the order for payment of wages or of dismissal, as the case may be, and for the payment of the costs awarded, and shall, if necessary, issue process for carrying such judgment into effect.

#### Medical Attendance.

12. Whenever thirty or more workmen or servants employed in, on, or about any work or undertaking by a master, request, in writing, such master to deduct from their wages a sum to provide for medical attendance, it shall be the duty of such master to give immediate effect to such request; the amount of such sum shall be determined by such workmen or servants and the medical practitioner selected.

13. (1) Before making the request referred to in section 12, a duly qualified medical practitioner or practitioners shall be selected by such workmen or servants, either present in person or represented by proxy, at a special meeting of such workmen or servants called for that purpose. A certificate in writing setting out the amount of the sums to be deducted under the provisions of section 12, and the name of the medical practitioner, selected, signed by the chairman and secretary of the meeting and by the medical practitioner, shall be furnished to the master along with the request.

(2) The workmen or servants may at any time by like resolution alter the name of the medical practitioner, upon giving one month's notice to the master by a like certificate amended in accordance with the resolution and signed by the chairman and secretary of the meeting at which the resolution is passed and by the new medical practitioner selected.

(3) It shall be the duty of the master to pay all sums so deducted to the medical practitioner named in the then current certificate or certificates, and no other sums shall be deducted from the wages of a workman or servant by a master for medical attendance. 1915, c. 42, s. 2.

14. A master who shall refuse to comply with the last two preceding sections, or shall use any influence or intimidation in the selection of a medical practitioner as aforesaid, shall be liable to a penalty of fifty dollars for each offence, to be recovered on complaint of any person under the provision of the "Summary Convictions Act."

15. Whenever a master deducts from the wages of his workmen or servants any sum to provide a fund for paying for medical attendance upon such workmen or servants, it shall be the duty of the master to keep a separate account of all moneys so deducted, and also showing in detail to whom such moneys have been paid and for what purpose expended, and a committee appointed by a majority of such workmen or servants shall have the right at any time to inspect and audit said account. A statement of such account, verified by statutory declaration, shall be filed with the Provincial Secretary on the first of January and the first of July in each year, and any person who contributes to the medical fund shall, upon application to the Provincial Secretary, be supplied with a copy of such statement upon the payment of twenty-five cents. 1915, c. 42, s. 3.

16. When the majority of the workmen engaged by a master through any cause whatever cease to work for more than one month for the master, and any money contributed to the medical fund by the workmen is held by the master, it shall upon request in writing, signed by a majority who contributed to said fund, be handed over to said workmen, or committee appointed by them, and shall be divided *pro rata* among all persons contributing to same. 1915, c. 42, s. 4.

17. A master who shall refuse to allow the committee to inspect and audit said account, or who shall pay out any moneys therefrom to a person not approved as aforesaid, shall be liable for each offence, upon summary conviction before a Justice of the Peace, Police Magistrate, or Stipendiary Magistrate, to a fine of fifty dollars.

(2) Every master who neglects to pay out the said fund or any portion thereof to, or withholds or attempts to withhold the said fund or any portion thereof from, the medical practitioner to whom the same is payable under this Act shall be liable, upon summary conviction, to a penalty of fifty dollars. 1915, c. 42, s. 5.

18. The expression "master" in the last six preceding sections shall include a body of persons, corporate or unincorporate.

#### Extra-provincial Labour Contracts Forbidden.

19. Any agreement or bargain, verbal or written, express or implied, which may be made between any person and any other person not a resident of the province, for the performance of labour or service or having reference to the performance of labour or service by such other person in the province, and made as aforesaid, previous to the migration or coming into the province of such other person whose labour or service is contracted for shall be void and of no effect as against the person only so migrating or coming.

Nothing in this section shall be so construed as to prevent any person from engaging under contract or agreement skilled workmen, not resident within the province, to perform labour in the province in or upon any new industry not at present established in the province, or any industry at present established, if skilled labour for the purpose of the industry cannot be otherwise obtained, nor shall the provisions of this section apply to teachers, professional actors, artists, lecturers, or singers.

### Mechanics' and Wage Earners' Liens.

Chapter 154.—1. This Act may be cited as the Mechanics' Lien Act.

#### Interpretation.

##### 2. In the construction of this Act—

"Contractor" means a person contracting with or employed directly by the owner or his agent for the doing of work or service, or placing or furnishing material for any of the purposes mentioned in this Act:

"Sub-contractor" means a person not contracting with or employed directly by the owner or his agent for the purpose aforesaid, but contracting with or employed by the contractor, or under him by another sub-contractor, to do the whole or a certain portion of the work, or to place or furnish material, but a person doing manual or mental labour for wages shall not be deemed a sub-contractor:

"Owner" means and shall extend to and include a person having any estate or interest, legal or equitable, in the lands upon or in respect of which the work or service is done, or material is placed or furnished, at whose request and upon whose credit, or on whose behalf, or with whose privity or consent, or for whose direct benefit any such work or service is done, or material is placed or furnished, and all persons claiming under him whose rights are acquired after the work or service in respect of which the lien is claimed is commenced or the material placed or furnished have been commenced to be furnished:

"Labourer" means and shall extend to and include every mechanic, miner, artisan, builder, or other person doing labour for wages:

"Person" includes a body corporate, firm, partnership, or association:

"The Judge" means the Judge of the County Court of the district in which the premises upon which the works or improvements are being carried on are situate:

"Works or improvements" shall include every act or undertaking for which a lien may be claimed under this Act:

"Material" shall include every kind of movable property:

"Wages" means money earned by a labourer for work done, whether by time or as piece-work:

"Mortgage" [See section 9, subsection (a), of this Act].

3. Nothing in this Act shall extend to any public street or highway, or to any work or improvement done or caused to be done by a municipal corporation thereon.

4. (1) Every agreement, verbal or written, express or implied, on the part of any labourer or other person employed in any kind of manual labour intended to be dealt with in this Act, that this Act shall not apply, or that the remedies provided by it shall not be available for the benefit of such person, shall be null and void.

(2) This section shall not apply to a manager, officer, or foreman, or to any other person whose wages are more than five dollars per day.

5. Where work or service is done or material is furnished upon or in respect of the land of a married woman, with the privity and consent of her husband, he shall be conclusively presumed to be acting as well for himself so as to bind his own interest, and also as her agent for the purposes of this Act, unless before doing such work or service, or furnishing such material, the person doing or furnishing the same shall have had actual notice to the contrary.

#### Nature of Liens.

6. Unless there is an agreement in writing to the contrary, signed by such person, and in that case subject to the provisions of section 4, every person—

(1) Who does work or service or causes work or service to be done upon, or places or furnishes any material to be used in the making, constructing, erecting, altering, or repairing, either in whole or in part of, or adding to, any erection, building, railway, tramway, road, bridge, trestlework, wharf, pier, mine, quarry, well, excavation, embankment, sidewalk, sewer, drain, ditch, flume, tunnel, aqueduct, dyke, or other work, or the appurtenances to any of them, or improving any street, road, or sidewalk adjacent thereto, for any owner, contractor, or sub-contractor, or who does such work, or causes such work to be done, and places or furnishes any such material; or

(2) Who does such work or service, or causes work or service to be done, or places or furnishes any material for or in respect of clearing, excavating, filling, grading or



ditching any land for any owner, contractor, or sub-contractor, or who does such work, or causes such work to be done, and places or furnishes any such material,— shall, by virtue thereof, have a lien for the price of such work, service, or material, or work, service, and material, upon—

(a) Said erection, building, railway, tramway, road, bridge, trestle-work, wharf, pier, mine, quarry, well, excavation, embankment, sidewalk, sewer, drain, ditch, flume, tunnel, aqueduct, dyke, or other work, and the appurtenances to any of them:

(b) The material so placed or furnished for said works or improvements:

(c) The lands occupied or benefited thereby or enjoyed therewith, or upon or in respect of which such work or service is done, or upon which such material is placed or furnished to be used:

Provided that no lien for material supplied shall attach or be enforced unless the person placing or furnishing the same shall, before delivery, or within ten days thereafter, give notice in writing of his intention to claim such lien. Such notice shall be given to the owner or his agent, or to such person and in such manner as the Judge may, on summary application, order. Such notice may be given in respect of any specific delivery, or in respect of all deliveries of material made within ten days prior to such notice, and all deliveries subsequent thereto. Such notice may be in the form or to the effect of Schedule A to this Act.

7. The amount of such lien shall not exceed the sum actually owing to the person entitled to the lien, and distribution of any moneys derived from the realization of the liens shall be made in accordance with section 36 of this Act.

8. With the exception of liens in favour of labourers for not more than six weeks' wages, no lien shall attach so as to make the owner liable for a greater sum than the sum payable by the owner to the contractor:

Provided that this clause shall not be construed to apply to liens under section 11 hereof.

9. Where works or improvements are put upon mortgaged premises, the liens, by virtue of this Act, shall be prior to such mortgage as against the increase in value of the mortgaged premises by reason of such works or improvements, but not further, unless the same is done at the request of the mortgagee in writing; and the amount of such increase shall be ascertained upon the basis of the selling value upon taking of the account, or by the trial of an issue as provided in section 31 hereof, and thereupon the Judge may, if he shall consider the works or improvements of sufficient value to justify the proceedings, order the mortgaged premises to be sold at an upset price equal to the selling value of the premises immediately prior to the commencement of such works or improvements (to be ascertained as aforesaid), and any sum realized in excess of such upset price shall be subject to the liens provided for by this Act. The moneys equal to the upset prices as aforesaid shall be applied towards the said mortgage or mortgages, according to their priority. Nothing, however, in this section shall prevent the lien from attaching upon the equity of redemption or other interest of the owner of the land subject to such mortgage or charge:

(a) "Mortgage" in this section shall not include any part of the principal-sum secured thereby not actually advanced to the borrower at the time the works or improvements are commenced, and shall include a vendor's lien and an agreement for the purchase of land; and for the purposes of this Act, and within the meaning thereof, the purchaser shall be deemed a mortgagor, and the seller a mortgagee.

10. All works or improvements mentioned in section 6 of this Act constructed upon any lands with the knowledge, but not at the request, of the owner, or his authorized agent, or the person having or claiming any interest therein, shall be held to have been constructed at the instance and request of such owner or person having or claiming any interest therein: Provided this section shall not apply to any works or improvements done after there has been posted, on at least two conspicuous places upon said land, or upon the works or improvements thereon, by authority of such owner or person, a notice in writing that he will not be responsible for such works or improvements, or after actual notice in writing to the above effect has reached the person claiming a lien under the provisions of this Act.

11. Notwithstanding anything in the last preceding section contained, all works or improvements mentioned in section 6 of this Act placed upon premises held under option or working bond where the grantee of the option is required or permitted by the grantor of such option to make works, or improvements thereon, shall, for the purpose of creating a lien, be held to have been constructed at the instance and request of the owner of such premises, and the grantor of such option and the liens by virtue of this Act shall attach and be enforceable against the interest both of the owner of the said premises and the grantor of such option.

12. Where any of the property upon which a lien is given by this Act is wholly or partly destroyed by fire, any insurance receivable thereon by the owner, prior mortgagee, or chargee shall take the place of the property so destroyed, and shall, after satisfying any prior mortgage or charge in the manner and to the extent set out in section 9 of this Act, be subject to the claims of all persons for liens to the same extent as if such moneys were realized by the sale of such property in action to enforce a lien.



## Security.

13. Any lien-holder or person entitled to a lien may at any time demand of the owner, or his agent, the terms of the contract or agreement with the contractor for and in respect of which the work is done or material is furnished or placed, and a statement of the amount due or unpaid thereunder; and if such owner or his agent—

(a) Does not at the time of such demand, or within a reasonable time thereafter, inform the person making such demand of the parties to and general terms of such contract or agreement, and the amount due or unpaid on such contract or agreement; or

(b) Intentionally or knowingly falsely states the terms of such contract or agreement, or the amount due and unpaid thereon; and if the person claiming the lien sustains loss by reason of such refusal, or neglect, or false statement, such owner shall be liable to him in an action therefor to the amount of such loss.

14. Any owner or other person who may be liable for the payment therefor may at any time demand from any contractor or sub-contractor performing work, or person who has given notice that he intends to claim a lien for materials, the terms of and parties to any contract or agreement under which he is performing work or placing or furnishing material, and a statement of account under same to the date of such demand; and if such contractor, sub-contractor, or person, or his agent—

(a) Does not at the time of such demand, or within reasonable time thereafter, inform the person making the demand of the terms of such contract or agreement, and the amount due or unpaid on such contract or agreement, and furnish the account as demanded; or

(b) Intentionally or knowingly falsely states the terms of such contract or agreement, or the amount due or unpaid thereon, or furnishes a false account; and if the owner or person making such demand sustains loss by reason of such refusal, neglect, or false statement, such contractor, sub-contractor, or person shall be liable to him in an action therefor to the amount of such loss, and, in any event, the lien of such contractor, sub-contractor, or person shall be limited by the statement given or furnished.

15. No owner shall be required to make any payment to any contractor or sub-contractor in respect of any contract where the contract price exceeds five hundred dollars until such contractor, or sub-contractor, or some person in charge of the works or improvements shall post upon the works or improvements a copy of the receipted pay-roll from the hour of twelve o'clock noon to the hour of one o'clock p.m., on the first legal day after pay-day, and shall have delivered to the owner, or other person acting on his behalf, the original pay-roll containing the names of all labourers and persons placing or furnishing materials who have done work, or placed or furnished material for him upon such works or improvements, with a receipt in full from each of the said labourers and persons placing or furnishing material with the amounts which were due and had been paid to each of them set opposite their respective names, which pay-roll may be in the form in Schedule B hereto, or until the time for filing liens in respect of such works or improvements shall have expired; and no payment made by the owner without the delivery of such pay-roll shall be valid for the purpose of defeating or diminishing any lien upon such property, estate, or interest in favour of any such labourer or person placing or furnishing material.

16. No assignment by the contractor or any sub-contractor of any moneys due in respect of the contract shall be valid as against any lien given by this Act. As to all liens, except that of the contractor, the whole contract price shall be payable in money, and shall not be diminished by any prior or subsequent indebtedness, set-off, or counterclaim in favour of the owner against the contractor.

17. During the continuance of any lien, no portion of the property affected thereby shall be removed to the prejudice of such lien, and any attempt at such removal may be restrained on application to the Judge.

18. Every device by an owner, contractor, or sub-contractor adopted to defeat the priority given to wage-earners for their wages by this Act shall, as against such wage-earners, be null and void.

19. Every lien upon any such erection, building, railway, tramway, road, bridge, trestle-work, wharf, pier, mine, quarry, well, excavation, embankment, sidewalk, sewer, drain, ditch, flume, tunnel, aqueduct, dyke, works, or improvements, the appurtenances to any of them, material or lands, shall absolutely cease to exist.—

(1) In the case of a claim for lien by a contractor or sub-contractor, after the expiration of thirty-one days after the completion of the contract:

(2) In the case of a claim for lien for materials, after the expiration of thirty-one days after the furnishing or placing of the last materials so furnished or placed:

(3) In the case of a claim for lien for services, after the expiration of thirty-one days after the completion of services:

(4) In the case of a claim for lien for wages, after thirty-one days after the last work is done for which the lien is claimed (except in the case of a claim for wages

owing for work in, at, or about a mine, in which case the lien shall cease after the expiration of sixty days after the last work is done for which the lien is claimed): Provided, however, that any labourer shall not be held to have ceased work upon any erection, building, railway, tramway, road, bridge, trestle-work, wharf, pier, mine, quarry, well, excavation, embankment, sidewalk, sewer, drain, ditch, flume, tunnel, aqueduct, dyke, works, or improvements, or land, until the completion of the same, if he has in the meantime been employed upon any other work by the same contractor,—unless in the meantime the person claiming the lien shall file in the nearest County Court registry, in the county wherein the land is situate, an affidavit, sworn before any person authorized to take oaths, stating in substance—

(a) The name and residence of the claimant, and the name of the owner of the property or interest to be charged:

(b) The particulars of the kind of works, services, improvements, or materials done, made, or furnished:

(c) The time when the works, services, or improvements were finished or discontinued, or the materials furnished or placed:

(d) The sum claimed to be owing, and when due:

(e) The description of the property to be charged;

and shall within the respective times hereinbefore in this section mentioned file in the Land Registry Office of the land registry district within the limits of which the lands, mines, or premises in respect of which the lien is claimed are situate a duplicate or a copy certified by the said County Court Registrar to be a true copy of such affidavit, which duplicate or certified copy of such affidavit shall be received and filed in the said Land Registry Office as a lien against the property, interest, or estate against which the lien is claimed. Every County Court Registrar shall be supplied with printed forms of such affidavits, in blank, which may be in the form or to the effect of Schedule C of this Act, and which shall be supplied to every person requesting the same and desiring to file a lien. Every County Court Registrar shall keep an alphabetical index of all claimants of liens, and the persons against whom such liens are claimed, which index shall be open for inspection during office hours, and it shall be the duty of such County Court Registrar to decide whether his is or is not the proper office for the filing of such affidavit, and to direct the applicant accordingly; and no affidavit shall be adjudged insufficient on the ground that it was not filed in the proper County Court registry.

20. A substantial compliance only with the last preceding section shall be required, and no lien shall be invalidated by reason of failure to comply with any of the requisites thereof, unless, in the opinion of the Judge adjudicating upon the lien under the said Act, the owner, contractor, sub-contractor, mortgagee, or some other person is prejudiced thereby, and then only to the extent to which he is prejudiced, and the Judge may allow the affidavit, statement of claim, plaint, and summons to be amended accordingly; and may allow the addition or substitution of all proper parties to the claim of lien, and the action to enforce the same, although the time for filing the affidavit mentioned in the said last preceding section, and instituting proceedings under section 23 hereof, shall have, or either of them has, expired.

21. No lien shall be filed unless the claim or joined claims shall amount to or aggregate twenty dollars or more.

22. In the event of the death of the lien-holder, his lien shall pass to his personal representatives, and the right of a lien-holder may be assigned by any instrument in writing, subject to the limitation contained in section 16 hereof.

#### Expiration, Cancellation, and Discharge.

23. Every lien shall absolutely cease to exist after the expiration of thirty-one days after the filing of the affidavit mentioned in section 19 of this Act, unless the claimant in the meantime shall have instituted proceedings to realize his lien under the provisions of this Act in the County Court registry in which the lien was filed, or unless in the meantime the consent in writing, signed by the owner or party whose interest is charged, extending the existence of said lien for a period named in said consent, is filed in the County Court registry in which the lien was filed. Said consent may be in the form or to the effect of Schedule D to this Act.

24. (1) The County Court Registrar shall cancel any lien when the amount due in respect thereof has been ascertained and paid into court in pursuance of an order of the Court or Judge, or the property has been sold to realize such lien, or such lien has been improperly filed or has otherwise ceased to exist, or on receiving a statement in writing, signed by the claimant or his agent, that the lien has been satisfied.

(2) Upon such cancellation the County Court Registrar shall issue a certificate thereof to the owner, and the Registrar-General or District Registrar of Titles (as the case may be) shall, upon the production of such certificate of cancellation, cancel the registration of such lien in the books of the Land Registry Office.

25. Any person against whose property a lien has been registered under this Act may apply to the Judge, on an affidavit setting forth registry of the same, and that hardship or inconvenience is experienced, or is likely to be experienced thereby, with the reasons for such statement, for a summons calling upon the opposite party to show cause why such lien should be cancelled upon sufficient security being given. Such summons, together with a copy of the affidavit on which the same is granted, shall be served on the opposite party and made returnable in three days after the issuing thereof, or in such greater or less time, as the Judge may direct.

26. On the return of such summons, the Judge may order the cancellation of such lien, either in whole or in part, upon the giving of security by the party against whose property the said lien is registered to the opposite party, in an amount satisfactory to the Judge, and upon such other terms (if any) as the Judge may see fit to impose.

27. The County Court Registrar and the Registrar-General or District Registrar of Titles (as the case may be) in whose office the said lien is registered shall, on the production of such order, or an office copy thereof, file the same and cause the said lien to be cancelled as to the property affected by the order.

#### Enforcement.

28. Any number of lien-holders may be joined in one suit, and all suits or proceedings brought by a lien-holder shall be taken to be brought on behalf of all lien-holders who may be made parties to such suits or proceedings within the time mentioned in section 23 hereof: Provided that the moneys realized in such suit shall be distributed amongst the lien-holders, parties to such suit or proceedings, in the order and manner provided in section 36 of this Act. Any lien-holder not originally joined may, within the time mentioned in section 23 hereof, be made a party to such suit or proceedings by order of the Judge, upon *ex parte* application, supported by an affidavit stating the particulars of the claim, and any lien-holder so joined in any such suit or proceedings shall be deemed to have complied with section 23 of this Act as fully as if he instituted a suit in his own behalf.

29. If more than one suit is commenced in respect of the same contract, the owner or contractor shall apply to have the causes consolidated, and failing to do so he shall pay the costs of such additional suit or suits.

30. If two or more actions are brought in respect of the same contract or work, the Judge shall, by order, on the application of any person interested, consolidate all the actions, and may make such order as to costs as he shall think fit.

31. Whatever the amount of lien or liens, proceedings to realize same may be taken before the Judge, who is hereby authorized and empowered to proceed in a summary manner by summons and order, and he may take accounts and make requisite inquiries, try issues, and in default of payment may direct the sale of the estate or interest charged, and such further proceedings may be taken for the purpose aforesaid as the Judge may think proper in his discretion, and any conveyance under his seal shall be effectual to pass the estate or interest sold. And, when not otherwise provided, the proceedings shall be, as nearly as possible, according to the practice and procedure in force in the County Court; and when these are no guide, the practice and procedure used in the Supreme Court shall be followed.

32. If the property sold in any proceedings under this Act shall be a leasehold interest, the purchaser of any such sale shall be deemed to be the assignee of such lease.

33. When it shall appear to the Judge in any proceedings to enforce a lien or liens under this Act that such proceedings have arisen from the failure of any owner or contractor, or both of them, to fulfil the terms of the contract or engagement for the work in respect of which the liens are sought to be enforced, or to comply with the provisions of this Act, the Judge may order the said owner or contractor, or both of them, to pay all the costs of such proceedings, in addition to the amount of the contract or sub-contract, or wages due by him or them to any contractor, sub-contractor, or labourer, and may order a final judgment against such contractor or owner, or both of them, for such costs.

34. Upon the hearing of any claim for a lien, the Court or Judge may, so far as the parties before him, or any of them, are debtor and creditor, give judgment against the former in favour of the latter for any indebtedness or liability arising out of the claim, in the same manner as if such indebtedness or liability had been sued upon in the County Court in the ordinary way, without reference to this Act.

And judgment may be given for the sum actually due, notwithstanding such sum may exceed the ordinary jurisdiction of the County Court.

35. In any action for a lien where the amount claimed to be owing is less than two hundred and fifty dollars, the judgment shall be final, binding, and without appeal; but in any other action for a lien an appeal shall lie from any judgment or order of the Judge in like manner as in ordinary cases.

36. All moneys realized by proceedings under this Act shall be applied and distributed in the following order:—

(1) The costs of all the lien-holders of and incidental to the proceedings and of registering and proving the liens:

(2) Six weeks' wages (if so much be owing) of all labourers employed by the owner, contractor, and sub-contractor:

(3) The several amounts owing for services rendered, work done (in excess of six weeks' wages), and material placed or furnished in respect of the works or improvements:

(4) The amounts owing the sub-contractor and other persons employed by the owner and contractor:

(5) The amount owing the contractor.

Each class of lien-holders shall rank *pari passu* for their several amounts, and the portions of said moneys available for distribution shall be distributed among the lien-holders *pro rata* according to their several classes and rights.

Any balance of said moneys remaining after all the above amounts have been distributed shall be payable to the owner or other person legally entitled thereto.

37. Every mechanic or other person who has bestowed money or skill and materials upon any chattel in the alteration and improvement of its properties, or increasing its value, so as thereby to become entitled to a lien upon such chattel or thing for the amount or value of the money, skill, or materials bestowed, shall, while such lien exists, but not afterwards, in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid, have power to sell the chattel in respect of which the lien exists, on giving two weeks' notice by advertisement in a newspaper published in the city, town, or county in which the work was done, or in case there is no newspaper published in such city, town or county, then in a newspaper published nearest thereto, stating the name of the person indebted, the amount of his indebtedness, a description of the chattel to be sold, the time and place of sale; and after such sale such mechanic or other person shall apply the proceeds of such sale in payment of the amount due to him, and the costs of advertising and sale, and shall pay over the surplus (if any) to the person entitled thereto, on application being made to him therefor, and a notice in writing of the result of the sale shall be left at or posted to the address of the owner at his last-known place of abode or business.

38. The taking of any security, or the acceptance or discounting of any promissory note, or cheque (which, on presentation, is dishonoured) for the claim, or the taking of any other acknowledgment of the claim, or the taking of any proceedings for the recovery of the claim, or the recovery of any personal judgment for the claim, shall not merge, waive, pay, satisfy, prejudice, or destroy any lien created by this Act, unless the lien-holder agrees in writing that it shall have that effect: Provided, however, that a person who has extended the time for payment of any claim for which he has a lien under this Act, to obtain the benefit of this section shall institute proceedings to enforce such lien within the time limited by this Act, but no further proceedings shall be taken in the action until the expiration of such extension of time: Provided further that notwithstanding such extension of time, such person may, where proceedings are instituted by any other person to enforce a lien against the same property, prove and obtain payment of his claim in such suit or action as if no such extension had been given.

39. The Judges of the County Courts, or any two of them, may make general rules and regulations, not inconsistent with this Act, for expediting and facilitating the business before such courts under this Act, and for the advancement of the interests of suitors therein.

#### Costs.

40. No fees in stamps or money shall be payable to any Judge or other officer in any action brought to realize a lien under this Act, nor on any filing, order, record, or judgment, or other proceedings in such action, excepting that every person, other than a wage-earner, shall, on filing his statement of claim where he is a plaintiff, or on filing his claim where he is not a plaintiff, pay in stamps one dollar on every one hundred dollars, or fraction of one hundred dollars, of the amount of his claim up to one thousand dollars.

41. The costs of the action under this Act awarded by the Judge or officer trying the action to the plaintiffs and successful lien-holders, exclusive of the costs of any appeal, shall not exceed in the aggregate an amount equal to twenty-five per cent of the amount of the judgment, besides actual disbursements, and shall be in addition to the amount of the judgment, and shall be apportioned and borne in such proportion as the Judge or other officer who tries the action may direct.

42. Where the costs are awarded against the plaintiff or other persons claiming the lien, such costs shall not exceed an amount in the aggregate equal to twenty-five per cent of the claim of the plaintiff and other claimants, besides actual disbursements, and shall be apportioned and borne as the Judge or said other officer may direct.

43. In case the least expensive course is not taken by a plaintiff under this Act, the costs allowed to the solicitor shall in no case exceed what would have been incurred if the least expensive course had been taken.

44. Where the lien is discharged or vacated under section 27 of this Act, or where in an action judgment is given in favour of or against a claim for a lien, in addition to the costs of an action, the Judge or other officer may allow a reasonable sum for costs of drawing and registering the lien, or for vacating the registration of the lien.

45. The costs of and incidental to all applications and orders made under this Act and not otherwise provided for shall be in the discretion of the Judge or officer to whom the application or by whom the order is made.  
(Schedules omitted.)

### Inspection and Regulation of Coal Mines.

Chapter 160.—1. This Act may be cited as the Coal-mines Regulation Act.

#### Interpretation.

2. In this Act, unless the context otherwise requires,—

“Mine” means a coal-mine, and includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven for opening any coal mine, and any and all the shafts, levels, planes, works, machinery, tramways, and sidings, both underground and above ground, in and adjacent to and belonging to a coal mine;

“Colliery” means a mine, and includes two or more adjacent mines under the same control and ownership;

“Shaft” includes pit, and means a perpendicular excavation in the earth or strata used for ventilation purposes, or for lowering or hoisting men or material to or from a mine, or for purposes of ingress or egress;

“Slope” or “incline” means an excavation in the earth or strata driven at an oblique angle with the plane of the horizon, and used for ventilation purposes or for the ingress or egress of men or material to or from a mine;

“Tunnel” or “level” means an excavation in the earth or strata driven horizontally or at such grade as may be necessary for drainage or haulage purposes, and used for the ingress or egress of men or material to or from a mine;

“Working-face” means any portion of a coal-seam in any mine from which coal is being cut, removed, sheared, broken, or loosened;

“Opening” includes shaft, slope, incline, tunnel, level, or any other means of access to a mine;

“Bank” means the pit-head or any surface entrance to a mine;

“Plan” includes a map or section, or a copy or tracing of an original map or section certified to be a correct copy by the manager or a properly qualified surveyor;

“Ton of coal gotten by a miner” means a weight of two thousand two hundred and forty pounds;

“Minister” means the Minister of Mines;

“Chief Inspector” means the Inspector for the time being designated by the Minister as the Chief Inspector of Mines;

“Inspector” means a person appointed by the Lieutenant-Governor in Council to be an Inspector of Mines;

“Woman or girl” means a female of any age;

“Chinaman” and “Chinese” shall include any person or persons of the Chinese blood or race, whether born within the limits of the Chinese Empire and its dependencies or not, and whether naturalized British subjects or not;

“Owner,” when used in relation to any mine, means any person or body corporate who is the immediate proprietor, or lessee, or occupier of any mine, or of any part thereof, and does not include a person or body corporate who merely receives a royalty, rent, or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant, or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor for the working of any mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but so as not to exempt the owner from any liability;

“Agent,” when used in relation to any mine, means a person acting on behalf of the owner or owners of the mines;

“Manager” means the chief officer having the control and daily supervision of any mine and who possesses a first-class certificate of competency as such issued under this or some former Act;

“Overman” means any person who has the daily charge of the underground workings of a mine under the control and daily supervision of the manager, and next in charge under such manager, and who possesses a second-class certificate of competency as such issued under this or some former Act;

"Mine foreman" or "shiftboss" means any competent person in charge of any mine or part of a mine next under the overman;

"Fireman" or "fireboss" means a competent person appointed to inspect the working-places of a mine, the roadways and approaches thereto, and other accessible parts of a mine, and to see that such are safe before a shift is allowed to enter such workings or other parts of the mine;

"Shotlighter" means a competent person employed to examine as to the safety of using and to supervise the use of the explosives used in breaking coal, and who is possessed of a certificate of competency as such;

"Certificated official" means a person holding a first, second, or third-class certificate of competency or service under this Act;

"Coal miner" means a person employed underground in any coal mine to cut, shear, break, or loosen coal from the solid, whether by hand or machinery, and possessed of a certificate of competency as such;

"Competent person" means a person holding a certificate of competency issued under this or some former Act for, and appointed for the purpose of, doing the class of work referred to.

#### Division of Act.

3. This Act is divided into thirteen parts, relating to the following subjects:—  
Part.

- I.—Regulation of Employment in Mines, and Wages.
- II.—Mining Shafts, Outlets, Submarine Areas, and Division of Mines.
- III.—Employment of Managers, Overseers, and Coal-miners.
- IV.—Board of Examiners and Certificates of and Inquiry into Competency of Managers and Others.
- V.—Returns and Notices.
- VI.—Protection of Abandoned Mines.
- VII.—Inspection of Mines.
- VIII.—Plans of Mines.
- IX.—Arbitration.
- X.—Inquest.
- XI.—General Rules.
- XII.—Rescue Work.
- XIII.—Supplemental.

### PART I.

#### REGULATION OF EMPLOYMENT IN MINES, AND WAGES.

##### Employment of Women, Girls, and Boys.

4. No boy under the age of fifteen years and no girl or woman of any age shall be employed or be permitted to be in any mine for the purpose of employment therein. No boy under the age of fourteen years and no girl or woman of any age shall be employed or be permitted to be in or about the surface workings of a colliery for the purpose of employment; and every manager shall, on the request of an Inspector, produce a copy of the certificate of birth or an affidavit or a statutory declaration setting forth the age of any boy employed in or about such mine or surface workings: Provided, however, that this prohibition shall not affect the employment of any person engaged in the performance of clerical work, or in performing domestic duties in any hotel, boarding house, or residence in connection with such colliery.

5. (1) No person, unless he is a male of at least twenty-two years of age, shall have charge of or operate any engine, windlass, or gin, or any part of the machinery, ropes, chains, or tackle connected therewith, driven or worked by steam or any mechanical power, or by an animal or by manual labour, used for conveying persons in any mine: Provided that when an engine, windlass, or gin, or any part of the machinery, ropes, or tackle connected therewith, is used solely for moving material in any mine, the same may be in charge of or operated by a person or persons not under the age of sixteen years.

(2) Every person in charge of an engine, windlass, or gin, or of any part of the machinery, ropes, chains, or tackle connected therewith, used for conveying persons in any mine shall be possessed of a certificate from a medical practitioner that he is mentally and physically fitted to perform his duty, and shall obtain a renewal of such certificate once in every six months.

6. If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, any provision of this Act with respect to the employment of women, girls, boys, or Chinamen, or to the employment of persons about any engine, windlass, or gin, he shall be guilty of an offence against this Act; and in case of any such contravention or non-compliance by any person whomsoever, the owner, agent,



and manager shall each be guilty of an offence against this Act, unless he prove that he had to the best of his power taken all reasonable means to prevent such contravention or non-compliance.

7. If it appears that a boy or a person employed about an engine, windlass, or gin was employed on the representation of his parent or guardian that he was of an age at which his employment would not be a contravention of this Act, and under the belief in good faith that he was of that age, the owner, agent, or manager of the mine and employer shall be exempt from any penalty, and the parent or guardian shall for such misrepresentation be deemed guilty of an offence against this Act.

#### Wages.

8. No wages shall be paid to any person employed in or about any mine at or within any public house, beer shop, or place for the sale of any spirits, beer, wine, cider, or other spirituous or fermented liquor, or other house of entertainment, or any office, garden, or place belonging or contiguous thereto or occupied therewith.

9. Every person who contravenes or fails to comply with, or permits any person to contravene or fail to comply with, the last preceding section shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent and manager shall each be guilty of an offence against this Act, unless he prove that he had to the best of his power taken all reasonable means to prevent such contravention or non-compliance.

10. Where the amount of wages paid to any person lawfully employed in a mine depends on the quantity of coal gotten by him, such person shall, unless the mine is exempted by the Minister, be paid according to the weight of the coal gotten by him, and such mineral shall, before screening, be truly weighed accordingly: Provided always that nothing herein contained shall preclude the owner, agent, or manager of the mine from agreeing with any or all person or persons employed in such mine that deductions shall be made in respect of stones or materials other than coal contracted to be gotten which shall be sent out of the mine with the coal contracted to be gotten, such deductions being determined by the bankman or weigher and checkweigher (if there be one), or, in case of difference, by a third party to be mutually agreed on by the owner, agent, or manager of the mine on the one hand and the persons employed in the mine on the other.

11. Where it is proved to the satisfaction of the Minister by the parties interested that, by reason of any exigencies existing in the case of any mine or class of mines to which the last preceding section applies, it is requisite or expedient that the persons employed in such mine or class of mines should not be paid by the weight of the coal gotten by them, or that the beginning of such payment by weight should be postponed, the Minister may, if he thinks fit, by order, exempt such mine or class of mines from the provisions of the said section, either without condition or during the time and upon the conditions specified in the order, or postpone in such mine or class of mines the beginning of such payment by weight, and may from time to time revoke or alter any such order.

12. If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, the provisions of section 10 hereof, he shall be guilty of an offence against this Act; and in the event of any contravention of or non-compliance with said section 10 by any person whomsoever, the owner, agent, and manager shall each be guilty of an offence against this Act, unless he proves that he had to the best of his power taken all reasonable means to prevent such contravention or non-compliance.

13. (1) The persons who are employed in a mine and are paid according to the weight of the coal gotten by them may, at their own cost, station a person (in this Act referred to as a "check-weigher") at the place appointed for the weighing of such mineral in order to take an account of the weight thereof on behalf of the persons by whom he is so stationed. The checkweigher may be appointed by the aforesaid persons employed from time to time in the mine.

(2) The checkweigher shall have every facility afforded to him to take a correct account of the weighing for the persons by whom he is so stationed; and if in any mine proper facilities are not afforded to the checkweigher as required by this section, the owner, agent, and manager of such mine shall each be guilty of an offence against this Act, unless he prove that he had to the best of his power taken all reasonable means to prevent such contravention or non-compliance.

14. The checkweigher shall not be authorized in any way to impede or interrupt the working of the mine or to interfere with the weighing, but shall be authorized only to take such account as aforesaid, and the absence of the checkweigher shall not be a reason for interrupting or delaying such weighing.

15. If the owner, agent, or manager of a mine desires the removal of a checkweigher on the ground that such checkweigher has impeded or interrupted the working of the mine or interfered with the weighing, or has otherwise misconducted himself, he may



complain to any court of summary jurisdiction; and if on the hearing of the case the court shall be of opinion that sufficient ground is shown by the owner, agent, or manager to justify the removal of the checkweigher, a summary order for his removal shall be made and the checkweigher shall thereupon be removed, but without prejudice to the stationing of another checkweigher in his place.

16. Proceedings for the removal of a checkweigher shall be deemed to be a matter on which two justices of the peace have authority by law to make an order in a summary manner, and the court may in every case make such order as to the costs of the proceedings as they think just.

17. If in pursuance of any order of exemption made by the minister the persons employed in the mine are paid by the measure or gauge of the material gotten by them, the provisions of the last four preceding sections shall apply in like manner as if the term "weighing" included measuring and gauging, and the terms relating to weighing shall be construed accordingly.

18. Whenever the coal-miners employed in a mine have engaged a checkweigher, and the majority of such coal-miners have made a request in writing to the owner, agent, or manager that the wages of such checkweigher be paid direct from the office of the mine, the said owner, agent, or manager shall withhold from the wages due the coal-miners aforesaid a *pro rata* amount sufficient from time to time to meet the wages due the checkweigher, and shall pay the same to him in a like manner as the wages of the said coal-miners are paid.

#### Employment Underground.

19. No person employed in or about a mine shall remain underground for the purpose of employment, or for any other purpose except as hereinafter provided, for a longer period than eight hours from bank to bank in any one calendar day of twenty-four hours: Provided, however, that where more than two shifts are worked the onsetter, bottomer or cager, pumpmen, stablemen, and engineers in charge of constantly running machinery other than motors and machinery directly used for the mining, drilling, or getting of coal at the face, the fireboss or the shiftboss in charge of the mine or shift, may be relieved at the place of duty; but in no case shall such person or persons remain underground for a longer period than eight hours and thirty minutes from bank to bank in any one calendar day of twenty-four hours; and provided further that nothing in this section shall be construed to prohibit extra hours of employment underground for such person or persons when necessitated by a weekly change of shift where more than two shifts are worked as aforesaid:

Provided also that nothing in this section contained shall apply where any miner, mine labourer, or underground worker has been employed or detained underground for a longer period than eight hours from bank to bank in any twenty-four hours owing to the occurrence of an accident to the mine, or in endeavouring to save or protect human life, or owing to such accident to save property, nor prohibit the manager or overman from entering a mine at any time and remaining therein in the necessary discharge of his duties.

No contravention of the foregoing shall be deemed to take place in the case of any pumpman or engineer in charge of constantly running machinery who is underground for the purpose of dealing with any emergency requiring immediate attention and which, if neglected, would necessitate the closing of the mine.

"Twenty-four hours" for the purpose of this section shall mean from midnight to midnight.

For the purpose of this section an inspector shall have access at all reasonable times to the time-book or other record of persons employed.

Any person who pays or receives payment for work (other than the hereinbefore excepted work) performed in excess of eight hours in twenty-four hours or who fails to comply with the provisions of this section shall be guilty of an offence against this Act.

## PART II.

### MINING SHAFTS, OUTLETS, SUBMARINE AREAS, AND DIVISION OF MINES.

#### Shafts or Outlets.

20. The owner, agent, or manager of a mine shall not employ any person in such mine, or permit any person to be in such mine for the purpose of employment therein, unless there are in communication with every seam of such mine for the time being at work at least two shafts separated by natural strata of not less than twenty-five yards in breadth, or other outlets of not less than ten yards in breadth, by which shafts or outlets distinct means of ingress and egress are available to the persons employed in such seam, whether such two shafts or outlets belong to the same mine or one or more of them belong to another mine, and unless there is a communication of not less than

four feet wide and four feet high between such two shafts or outlets: Provided that such separation shall not be deemed incomplete by reason only that openings through the strata between the two shafts or outlets have been made for temporary purposes of ventilation, drainage, or otherwise; or in the case of mines where inflammable gas has not been found within the preceding twelve months, for the same purposes, although not temporary.

21. Proper apparatus for raising and lowering persons and for their ingress or egress at each such shaft or outlet where necessary shall be kept on the works belonging to the mine; and such apparatus, if not in actual use at the shafts or outlets, shall be constantly available for use.

22. Where two or more shafts are required pursuant to section 20 of this Act, no mine or any portion thereof shall be ventilated by a separate intake and return airway within the area of any one shaft or permanent opening, or maintained by any midwall, air-pipe, or any other separate division within such shaft, but separate shafts separated by not less than seventy-five feet of natural strata shall be used for the intake and return airways respectively.

Provided that nothing in this section shall conflict with the exemptions as to single shafts as set forth in section 26 of this Act:

And provided further that the Minister may grant such exemptions as he may see fit to mines already opened and in operation, or where by reason of the faulty nature of the seam or the limited area of available coal remaining it would be inexpedient to enforce compliance with the said section 20.

23. Every owner, agent, or manager of a mine who acts in contravention of or fails to comply with any provisions of the last three preceding sections shall be guilty of an offence against this Act.

24. The Supreme Court, whether any other proceedings have or have not been taken may, upon the application of the Attorney-General, prohibit by injunction the working of any mine in contravention of sections 20 and 22 of this Act or either of the said sections, and may award such costs in the matter of the injunction as the court thinks just; but this provision shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this Act. Written notice of the intention to apply for such injunction in respect of any mine shall be given to the owner, agent, or manager of such mine not less than ten days before the application is made.

25. No person shall be precluded by any agreement from doing such acts as may be necessary for providing a second shaft or outlet to a mine where the same is required by this Act, or be liable under any contract to any penalty or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this Act with respect to shafts or outlets.

26. The provisions of this Act with respect to shafts or outlets shall not apply in the following cases, that is to say:—

(1) In the case either of opening a new mine for the purpose of searching for coal or proving the mine or of any working for the purpose of making a communication between two or more shafts, so long as not more than twenty persons are employed underground at any one time in the whole of the different seams in connection with each shaft or outlet in such new mine or such working:

(2) In the case of any proved mine, so long as it is exempted in writing by the Minister on the ground either—

(a) That the quantity of coal proved is not sufficient to repay the outlay which would be occasioned by the sinking or making of a second shaft or outlet; or

(b) If the mine is not a mine with inflammable gas, that sufficient provision has been made against danger from other causes than explosions of gas by using stone, brick, or iron in the place of wood for the lining of the shaft and the construction of the midwall; or

(c) That the workings in any seam of a mine have reached the boundary of the property or other extremity of the mineral field of which such seam is a part, and that it is expedient to work away the pillars already formed in course of the ordinary working, notwithstanding that one of the shafts or outlets may be cut off by so working away the pillars of such seam;

and so long as there are not employed underground at any one time in the whole of the different seams in connection with the shaft or outlet in any such mine more than twenty persons, or (if the mine is not a mine with inflammable gas) than such larger number of persons as may for the time being be allowed by the Minister:

(3) The Minister may order that a borehole shall be provided in connection with such workings as a measure of safety;

(4) In the case of any mine one of the shafts or outlets of which has become, by reason of some accident, unavailable for the use of the persons employed in the mine, so long as such mine is exempted in writing by the Minister and the conditions on which such exemption is granted are duly observed.

### Mining Submarine Areas.

27. No submarine seam of coal or stratified deposit thereof shall be wrought under a less cover than one hundred and eighty feet of solid measures: Provided that the owner, agent, or lessee of any such area may drive passageways to win the coal to be wrought under a less cover than one hundred and eighty feet, but not less than one hundred feet of solid measures unless the condition of strata overlying such proposed passageway warrants the Minister, on the written report of the Chief Inspector, permitting a lesser cover than one hundred feet of solid measures; and provided further that nothing herein contained shall prevent any owner, agent, or lessee, from winning water-covered coal-areas, when other means of access thereto are not available by caisson, shaft, or concrete revetment, or by any safe method whereby any shaft or opening may be safely and securely sunk or driven and maintained through such water-covered areas; but any coal or stratified deposit so won shall be mined and operated subject to the provisions of this section; and provided further that the Minister may grant such exemption from the provisions of this section to mines already opened, under such conditions as he may deem safe.

28. Before commencing to mine any coal or stratified deposit thereof in submarine coal-areas, the owner, agent, or lessee shall submit to the Chief Inspector a plan of the system whereby such submarine coal-area is proposed to be worked, and such system must receive the written approval of the said Chief Inspector before mining operations shall be commenced, and no change shall be made in such approved system without the written consent of the said Chief Inspector.

29. The mine-plan of all submarine coal-areas shall show the depth of solid cover at specified distances along the lines of all main roads and around the working-faces, and soundings shall also be taken at reasonable distances and recorded on such plan or plans; and it shall be incumbent upon the owner, agent, lessee, or manager to furnish to the Chief Inspector or to the Inspector for the district, when required and if reasonably practicable, the depth of any marine or alluvial deposit of sand, mud, silt, gravel, or drift which may overlay any submarine coal-area in which mining operations may be carried on, or are intended to be carried on, by the aforesaid owner, agent, lessee, or manager.

### Division of Mine into Parts.

30. Where two or more parts of a mine are worked separately, the owner or agent of such mine may give notice in writing to that effect to the Inspector for the district, and thereupon each such part shall, for all the purposes of this Act, be deemed to be a separate mine.

31. If the Minister is of opinion that the division of a mine, in pursuance of the last preceding section, tends to lead to the evasion of the provisions of this Act, or otherwise to prevent the carrying of this Act into effect, he may object to such division by notice served on the owner or agent of the mine; and such owner or agent, if he decline to acquiesce in such objection, may, within twenty days after the receipt of such notice, send a notice to the Inspector for the district stating that he declines so to acquiesce, and thereupon the matter shall be determined by arbitration in manner provided by this Act; and the date of the receipt of the last-mentioned notice shall be deemed to be the date of the reference.

## PART III.

### EMPLOYMENT OF MANAGERS, OVERSEERS, AND COAL-MINERS.

32. A person shall not be qualified to be, and it shall be unlawful to employ him as, a manager, overman, shiftboss, fireman, or shot-lighter of a mine unless he is for the time being registered as the holder of a certificate under this Act.

### Certificated Managers and Other Officials.

33. (1) Every mine shall be under the control and daily supervision of a manager, and the owner or agent of every such mine shall nominate himself or some other person (not being a contractor for getting the coal in such mine, or a person in the employ of such contractor) to be the manager of such mine, and he shall send written notice to the Inspector for the district of the name and address of such manager.

(2) The underground workings of every mine shall be under the daily charge of an overman or overmen, shiftboss or shiftbosses, fireboss or firebosses, and shotlighter or shotlighters, holding certificates under this Act, except as provided in section 34 of this Act.

(3) For the purposes of this section the manager and overman shall be separate persons: Provided, however, that in mines where the number of persons employed underground at any one time does not exceed fifty the manager may also act as over-

man, unless the Inspector, by notice in writing to the owner or agent, requires such mine to be under the control and daily supervision of both a manager and an overman.

34. If any mine is worked for more than fourteen days without a manager as required by this Act, the owner and agent of such mine shall each be liable to a penalty not exceeding two hundred and fifty dollars and to a further penalty not exceeding fifty dollars for every day during which such mine is so worked:

Provided that—

(a) The owner of such mine shall not be liable to any such penalty if he prove that he had to the best of his power taken all reasonable means to comply with this section and to prevent the mine being worked in contravention thereof;

(b) If for any reasonable cause there is for the time being no manager of a mine qualified as required by this Act, the owner or agent of such mine may appoint, with the consent of the Chief Inspector, any person not holding a certificate under this Act to be manager for a period not exceeding two months, or such longer period as may elapse before such person has an opportunity of obtaining by examination a certificate under this Act, and shall send to the Inspector for the district a written notice of the name and address of such manager, and of the reason of his appointment; and

(c) A mine in which less than thirty persons are ordinarily employed underground shall be exempt from the provisions of this section in so far as they relate to the appointment of a manager, unless the Chief Inspector, by notice in writing served on the owner or agent of such mine, requires the same to be under the control of a manager. But the operations underground shall be under the charge of a person holding a certificate as overman or shiftboss under this Act: Provided, however, that this section shall not apply to prospecting or exploratory workings where less than ten men are employed underground at any one time, unless the Chief Inspector, by notice in writing served on the owner or agent of such mine, requires such mine to be under the control of such certificate overman or shiftboss.

35. No person shall be employed as a coal-miner in any mine who is not in possession of a certificate of competency as such.

36. Coal-cutting machinery may be operated by any person if he is accompanied by and under the control of a coal-miner under this Act.

37. Every owner, agent, or manager of any mine who gives charge of a working-place to any person who is not the holder of a certificate of competency as required by this Act, and every person who obtains or seeks to obtain such employment by means of a false or fraudulent certificate, shall be guilty of an offence against this Act.

## PART IV.

### BOARD OF EXAMINERS AND CERTIFICATES OF AND INQUIRY INTO COMPETENCY OF MANAGERS AND OTHERS.

#### Appointment and Constitution of Board.

38. For the purpose of granting in any part of the province certificates of competency to managers of mines, overmen, shiftbosses, firebosses, and shotlighters for the purposes of this Act, examiners shall be appointed by a Board constituted as herein-after mentioned.

39. (1) The Minister may from time to time appoint, remove, and reappoint fit persons to form such Board as follows, namely: Two persons being owners, agents, or managers of a mine and two persons being practical coal-miners, and one inspector under this Act; the persons so appointed shall, during the pleasure of the Minister, form the Board for the purposes of the said examinations in the province.

(2) The Minister may at any time increase the membership of the Board: Provided, however, that the Board shall always contain an equal number of persons being agents, owners, or managers of a mine and of persons being practical coal-miners.

#### Powers of Board.

40. The proceedings of the Board shall be in accordance with the rules in the Second Schedule to this Act. The Board shall from time to time appoint examiners, not being members of the Board except with the consent of the Minister, to conduct the examinations in any part of the province of applicants for certificates of competency under this Act; and may from time to time make, alter, and revoke rules as to the conduct of such examinations and the qualifications of the applicants, so, however, that in every such examination regard shall be had to such knowledge as is necessary for the practical working of mines in the province; such Board shall make from time to time to the Minister a report and return of their proceedings, and of such other matters as the Minister may from time to time require.

## Qualifications of Candidates.

41. In no case shall a certificate of competency be granted to any candidate until he shall satisfy the Board of Examiners—

(a) If a candidate for a manager, that he is a British subject and has had at least five years' experience in and about the practical working of a coal-mine, and is at least twenty-five years of age; or, if he has taken a degree in scientific and mining training, including a course in coal-mining at a university or mining school approved by the Minister, that he has had at least four years' experience in and about the practical working of a coal-mine;

(b) If a candidate for overman, that he has had at least five years' experience in and about the practical working of a coal-mine, and is at least twenty-three years of age;

(c) If a candidate for shiftboss, fireboss, or shotlighter, that he has had at least three years' experience in and about the practical working of a coal-mine, is the holder of a certificate of competency as a coal-miner, and is at least twenty-three years of age.

A candidate for a certificate of competency as manager, overman, shiftboss, fireboss, or shotlighter shall produce a certificate from a duly qualified medical practitioner or St. John's or other recognized ambulance society, showing that he has taken a course in ambulance work fitting him, the said candidate, to give first aid to men injured in coal mining operations.

For the purposes of this section the experience demanded shall be of such a character as the Board of Examiners shall consider of practical value in qualifying the candidate for the position to which such class of certificate applies.

Experience had outside of the province may be accepted should the Board of Examiners consider the same of equal value.

42. The Minister shall deliver to every applicant who is duly reported by the Board of Examiners to have satisfactorily passed the examination as manager, overman, shiftboss, fireboss, or shotlighter, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct, such a certificate of competency as the case requires. These certificates shall be in such form as the Minister from time to time directs, and a register of the holders of such certificates shall be kept by such person and in such manner as the Minister from time to time directs.

43. Such certificate of competency shall be: first-class as manager; second-class as overman; third-class as shiftboss, fireboss, or shotlighter. A certificate of any class shall be considered to include that of any other of same class, or that of any lower class. Certificates of competency as overman, shotlighter, or fireboss granted under the Coal Mines Regulation Act Amendment Act, 1901, shall be accepted as equivalent to a third-class certificate under this Act, and may be exchanged for such, upon application to the Minister, free of charge.

## Certificates of Service.

44. Certificates of service as manager for the purposes of this Act shall be granted by the Minister to every person who satisfies him either that before the first day of March, 1911, he was acting and has since that day acted, or that he has at any time within five years before that date, for a period of not less than twelve months, acted in British Columbia in the capacity of a manager of a mine, or such part of a mine as can under this Act be made a separate mine for the purposes of this Act.

45. Certificates of service as overman for the purposes of this Act shall be granted by the Minister, upon the recommendation of the Board of Examiners, to any person who shall satisfy such Board of Examiners that he is the holder of a certificate as overman issued under the Coal Mines Regulation Act Amendment Act, 1901, and that either before the first day of March, 1911, he was acting and has since that day acted, or that he has at any time within two years before that date for a period of not less than twelve months, acted in a mine in British Columbia in the capacity of overman, as defined by the interpretation clauses of this Act, and that he is otherwise as duly qualified as regards experience and fitness as is required for a certificate of competency as overman under sections 40 to 43, both inclusive, of this Act.

46. Every such certificate of service shall contain particulars of the name, place, and date of birth and the length and nature of the previous service of the person to whom the same is delivered, and a certificate of service may be refused to any person who fails to give a full and satisfactory account of the particulars aforesaid, or to pay such registration fee as the Minister may direct, not exceeding those specified in the First Schedule to this Act.

47. A certificate of service shall have the same effect for the purposes of this Act as a certificate of competency granted under this Act.

## Inquiries into Competency.

48. If at any time representation is made to the Minister by an inspector, or otherwise, that any manager, overman, shiftboss, fireboss, shotlighter, or coal-miner holding

a certificate under this Act is by reason of incompetency, drunkenness, or gross negligence, or negligence leading to or resulting in loss of life or serious injury to any employee, unfit to discharge his duties, or has been convicted of any offence against this Act, the Minister may, if he think fit, cause inquiry to be made into the conduct of such manager, overman, shiftboss, fireboss, shotlighter, or coal-miner; and with respect to such inquiry the following provisions shall have effect:—

(1) The inquiry shall be public, and shall be held at such place as the Minister may appoint, by such County Court Judge, Police Magistrate, Stipendiary Magistrate, or other person or persons, as may be directed by the Minister, and either alone or with the assistance of any assessors named by the Minister;

(2) The Minister shall, before the commencement of the inquiry, furnish the person into whose conduct the inquiry is to be made with a statement of the case upon which the inquiry is instituted;

(3) Some person appointed by the Minister shall undertake the management of the case;

(4) The person into whose conduct the inquiry is to be made may attend the inquiry by himself, his counsel, solicitor, or agent, and may, if he think fit, be sworn and examined as an ordinary witness in the case;

(5) The person or persons appointed to hold the inquiry (in this Act referred to as "the court") shall, upon the conclusion of the inquiry, send to the Minister a report containing a full statement of the case, and an opinion thereon, and such report of or extracts from the evidence as the court thinks fit;

(6) The court shall have power to cancel or suspend the certificate of the person into whose conduct the inquiry has been made if it is found that he is, by reason of incompetency, drunkenness, or gross negligence, unfit to discharge his duty, or has been convicted of an offence against the Act;

(7) The court may require the person into whose conduct inquiry is to be made to deliver up his certificate; and if such person fails, without sufficient cause, to comply with such requisition, he shall upon summary conviction of such failure be liable to a penalty not exceeding five hundred dollars. The court shall hold a certificate so delivered until the conclusion of the investigation, and shall then either restore, cancel, or suspend the same, according to the judgment on the case;

(8) The court shall have, for the purpose of the inquiry, all the powers of a court of summary jurisdiction and all the powers of an inspector under this Act;

(9) The court may also, by summons, require the attendance before the court of any person whatsoever for the purpose of being examined, and every person so summoned shall be allowed such expenses as would be allowed to a witness attending on subpoena before the Supreme Court; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to the Registrar of the Supreme Court, who, on request of the court, shall ascertain and certify the proper amount of such expenses.

49. The court may make such order as it thinks fit respecting the costs and expenses of the inquiry, and such order shall, on the application of any party entitled to the benefit of the same, be enforced by any court of summary jurisdiction as if such costs and expenses were a penalty imposed by such court.

50. The Minister may, if he think fit, pay to the members of the court of inquiry, including any assessors, such remuneration as he may think proper.

51. (1) Where a certificate of a manager, overman, shiftboss, fireboss, shotlighter, or coal-miner is cancelled or suspended in pursuance of this Act, the Minister shall cause such cancellation or suspension to be recorded in the register of holders of certificates.

(2) No other certificate shall be issued to such person whose certificate may have been cancelled or during the terms for which such certificate may have been suspended, save and except as provided in the next succeeding section.

52. The Minister may at any time, if it is shown to him to be just so to do, renew or restore, on such terms as he thinks fit, any certificate which has been cancelled or suspended in pursuance of this Act.

#### Lost Certificates.

53. Wherever any person proves to the satisfaction of the Minister that he has, without fault on his part, lost or been deprived of any certificate previously granted to him under this Act, the Minister shall, upon payment of such fee (if any) as he may direct, but not exceeding the fee specified in the first Schedule to this Act, cause a copy of the certificate to which the applicant appears by the register to be entitled to be made out and certified by the person who keeps the register, and delivered to the applicant, and any copy which purports to be so made and certified as aforesaid shall have all the effects of the original certificate.

## Rules for Examination.

54. (1) The Minister may from time to time make, alter, and revoke rules as to the places and times of examination of applicants for certificates of competency under this Act, the number and remuneration of the examiners, and the fees to be paid by the applicants, so that the fees do not exceed those specified in the First Schedule to this Act. Every such rule shall be duly observed by the Board appointed under this Act.

(2) The Lieutenant-Governor in Council shall have power at any time to alter and revoke any rules made by the Board of Examiners.

## Fees.

55. All fees payable by the applicants for examination for or for a copy of a certificate under this Act shall be paid into the Treasury and form part of the general revenue of the province.

## Examination of Coal-miners.

56. (1) Coal-miners' certificates of competency shall be granted by a Board of Examiners consisting of not less than three competent persons; such Board to be constituted at each colliery which the Lieutenant-Governor in Council may designate, and such Board shall consist of the following persons:—

(a) One appointed by the Lieutenant-Governor in Council,

(b) One, with two alternates, appointed by the manager or managers of the colliery,

(c) One coal-miner with two alternates, possessed of certificates of competency as such. Such coal-miner and coal-miner alternates shall be elected by the coal-miners whose names shall appear on the list referred to in section 12 in the Third Schedule to this Act,

(d) The proceedings of the Board shall be in accordance with the rules in the Third Schedule to this Act,

(e) An Inspector of Mines shall, *ex officio*, be a member, without voting-power, of all Boards under this section within his inspectorate.

(2) Such Board shall hold office for one year or until their successors are appointed.

(3) The examination as aforesaid shall be held on the first Monday in each and every month, except in cases where the Minister may fix some other date on which a Board shall hold its examination.

57. No certificate of competency shall be granted to any coal-miner who does not satisfy the majority of such Board of Examiners that he is sufficiently conversant with the English language, and with the provisions of the Acts relating to coal-mining and the rules and regulations made thereunder, to render his employment as such safe, and also that he has been employed in a coal-mine for at least twelve months previous to the date of his application for such certificate, and has sufficient knowledge of methods of coal-mining to render him competent to perform the duties appertaining to his employment.

## PART V.

## RETURNS AND NOTICES.

## Returns.

58. On or before the first day of February in every year the owner, agent or manager of every mine shall send to the Inspector of the district for transmission to the Minister a correct return, specifying, with respect to the year ending on the preceding thirty-first day of December, the quantity of coal wrought in such mine, and the number of persons ordinarily employed in or about such mine underground and above ground, distinguishing the persons and different classes employed underground and above ground.

59. The returns shall be in such form as may be from time to time prescribed by the Minister, and the Inspector for the district on behalf of the Minister shall from time to time, on application, furnish forms for the purpose of such return.

60. The Minister may publish any such individual return or the returns of any Inspector.

61. Every owner, agent, or manager of a mine who fails to comply with the last three preceding sections or makes any return which is to his knowledge false in any particular shall be guilty of an offence against this Act.

62. The owner, agent, or manager of every mine shall send to the Minister or the Chief Inspector a return of any special facts relating to the safety of the mine whenever required.



## Notices.

63. (1) Where in or about any mine, whether above or under ground, either—

(a) Loss of life or any personal injury to any person employed in or about the mine occurs by reason of any explosion of gas, powder, or any steam-boiler; or

(b) Loss of life or any serious personal injury to any person employed in or about the mine occurs by reason of any accident whatever,—

the owner, agent, or manager of the mine shall forthwith communicate such information to the Chief Inspector or Inspector for the district by telephone, telegraph, or messenger, if such means of communication are reasonably available, and in addition shall, within twenty-four hours next after the accident, send notice in writing thereof, and of the loss of life or personal injury occasioned thereby, to the Inspector of the district on behalf of the Minister, and shall specify in such notice the character of the accident and the number of persons killed and injured respectively.

(2) In cases where loss of life or serious personal injury has occurred in any mine, the place of such accident shall remain undisturbed for a period of three days or until the Inspector shall have inspected the same: Provided, however, that a compliance herewith shall not seriously interfere with the general operation of the mine, and such place of accident shall have been examined by an employee, being a coal miner or a member of the miners' or gas committee (if any), on behalf of the miners:

64. Where any personal injury, of which notice is required to be sent under the last preceding section, results in the death of any person injured, notice in writing of the death shall be sent to the Inspector of the district on behalf of the Minister within twenty-four hours after such death comes to the knowledge of the owner, agent, or manager.

65. Every owner, agent, or manager who fails to act in compliance with the last two preceding sections or either of them shall be guilty of an offence against this Act.

66. In any of the following cases, namely:—

(1) Where any working is commenced for the purpose of opening a new shaft for any mine:

(2) Where a shaft of any mine is abandoned or the working thereof discontinued:

(3) Where the working of a shaft of any mine is recommenced after any abandonment or discontinuance for a period exceeding two months; or

(4) Where any change occurs in the name of, or in the name of the owner, agent, or manager of, any mine, or in the officers of any incorporated company which is the owner of a mine,—

the owner, agent, or manager of such mine shall, after such commencement, abandonment, discontinuance, recommencement, or change, forthwith give notice thereof to the Chief Inspector; and if such notice is not given, the owner, agent, or manager shall be guilty of an offence against this Act.

67. All notices under this Act shall be written in ink or printed, or partly in ink writing and partly in print, and all notices and documents required by this Act to be served or sent by or to an Inspector may be either delivered personally or served and sent by post by a prepaid letter, and if served or sent by post shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending it shall be sufficient to prove that the letter containing the notice was properly addressed and mailed.

## PART VI.

## PROTECTION OF ABANDONED MINES.

68. Where any mine is abandoned or the working thereof discontinued, at whatever time such abandonment or discontinuance occurred, the owner thereof and every other person interested in the minerals of such mine shall cause the top of the shaft and any side entrance from the surface to be and to be kept securely fenced for the prevention of accidents:

Provided that—

(1) The owner of the mine shall be primarily liable for the carrying into effect of this section, and shall pay all cost of such fencing if incurred by any person other than the owner:

(2) Nothing in this section shall exempt any person from any liability under any other Act, or otherwise.

If any person fails to act in conformity with this section, he shall be guilty of an offence against this Act.

69. Any shaft or side entrance which is not fenced as required by the last preceding section, and is within fifty yards of any highway, road, footpath, or place of public resort, or is in open or unenclosed land, shall be deemed to be a nuisance.

70. Where any mine is temporarily or permanently abandoned, the owner of such mine at the time of such abandonment shall, within three months after such abandonment, send to the Minister an accurate plan, on a scale of not less than one hundred feet to one inch, or on such other scale as the plan used in the mine at the time of such abandonment is constructed, showing the boundaries of the workings of such mine up to the time of the abandonment, with a view of its being preserved under the care of the Minister; but no person, except an inspector under this Act, shall be entitled, without the consent of the owner of the mine, to see such plan when so sent until after the lapse of ten years from the time of such abandonment: Provided that the accuracy of every such plan shall be certified, so far as is reasonably practicable, by a surveyor or other person approved in that behalf by the chief inspector. Every person who fails to comply with this section shall be guilty of an offence against this Act:

Provided, however, that such inspector or other authorized official of the Department of Mines may, under the direction of the Minister, for the purpose of guarding the safety of mining operations in adjacent properties, take from such deposited plan such measurements or other information as may be necessary therefor, and make use of them in the discharge of his duties.

## PART VII:

### INSPECTION OF MINES.

#### Appointment of Inspectors.

71. The Lieutenant-Governor in Council may from time to time appoint fit persons, who must be possessed of mine managers' certificates of competency, to be inspectors of mines, and assign them their districts and duties, and may award them such remuneration as the Lieutenant-Governor in Council may approve, and may remove such inspectors.

72. The Minister may designate one of such inspectors as chief inspector, and assign to him such duties and designate any such place as the office of such chief inspector as he may see fit.

73. The Minister may at any time appoint any mining engineer or other person of scientific or special attainment or practical experience to make a special investigation and report upon any mining operations so far as they relate to the safety of life and property in any mine, and such person so appointed shall have all the rights of entry into such mine and access to such plans and records as are accorded to an inspector under this Act; and in such case the Minister may cause such report to be made public at such time and in such manner as he thinks expedient.

74. Notice of the appointment of every such inspector shall be published in the Gazette.

75. Any such inspector is referred to in this Act as an inspector; and the inspector for a district means the inspector who is for the time being assigned to the district or portion of the province with reference to which the term is used.

#### Disqualification.

76. Any person who practices or acts, or is partner of any person who practises or acts, as a land agent or mining engineer, or as a manager, viewer, agent, or valuer of mines, or arbitrator in any difference arising between owners, agents, or managers of mines, or is otherwise employed in or about any mine (whether such mine is one to which this Act applies or not), shall not act as an inspector under this Act, and no inspector shall be a partner or have any interest, direct or indirect, in any mine in the district under his charge.

#### Powers and Duties of Inspectors.

77. An inspector under this Act shall have power to do all or any of the following things, namely:—

(1) To make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act relating to matters above ground or underground are complied with:

(2) To enter, inspect, and examine any mine and every part thereof at all reasonable times by day and night, but so as not to impede or obstruct the working of the said mine, except in an effort to save human life:

(3) To examine into and make inquiry respecting the state and condition of any mine or any part thereof, and the ventilation of the mine, and the sufficiency of the special rules for the time being in force in the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine or any mine contiguous thereto:

(4) To exercise such other powers as may be necessary for carrying this Act into effect.

The inspector shall visit every mine within his jurisdiction and every part thereof, and all underground travelling-roads leading to and therefrom, and all air-courses, at least once every month.

Immediately after each visit the inspector shall cause to be posted in some conspicuous place, at or near the mine, a statement showing what portion of such mine has been inspected, and the condition found to prevail therein; and he shall furnish a copy of such statement to the manager of such mine.

78. Every person who wilfully obstructs any inspector in the execution of his duty under this Act, and every owner, agent, or manager of a mine who refuses or neglects to furnish to the inspector the means necessary for making any entry, inspection, examination, or inquiry under this Act in relation to such mine, shall be guilty of an offence against this Act.

79. (1) If an inspector, upon careful investigation, is of the opinion that a mine or any part thereof is in any respect dangerous, or that any matter, thing, or practice done, followed, or permitted in, about, or in connection with such mine constitutes a defect calculated to impair the efficiency of mining operations or to endanger the safety of any person in or about such mine, such inspector shall give notice thereof in writing to the owner, agent, or manager of the mine, stating in such notice the grounds of his opinion, and shall, by the said notice or otherwise, order that such remedies be applied and such provision be made for the safeguarding of those employed in or about the mine as he thinks requisite. If the inspector is of opinion that any delay in remedying such matter would be dangerous, he may order the closing of the mine or any part thereof, or may order the stopping of all work therein or connected therewith, until the matter complained of be remedied; and in every such case the inspector shall forthwith transmit to the minister a copy of the order and a full report of the reasons therefor.

Any owner, agent, manager, or other person refusing or neglecting to obey any order given by the inspector under this subsection shall be guilty of an offence against this Act.

(2) Where an inspector has reason to believe that a dangerous condition exists in any mine by reason of the approach of workings to old or abandoned workings, he shall at once report to the Chief Inspector, who in turn shall report to the Minister. Under instructions from the Minister the Chief Inspector shall make an examination of the locality in which such workings are situate, and issue directions to govern mining operations (if any) to be carried on in such locality until such dangerous condition is removed or overcome.

(3) The powers and duties of the inspector under this section shall also extend to the case of the employment in a mine of any person who, by want of understanding, knowledge, or skill, or owing to mental or physical incapacity or incompetency for the performance of the particular task or duty upon which he is engaged, or who from any cause is unable to clearly understand instructions conveyed to him, or is or may be a source of danger to any other person in the mine in which such person is for the time being employed, or whose presence or employment in such mine exposes or may expose any person to the risk of bodily injury; and it shall be the duty of the inspector, on the application in writing of any three miners employed within his inspectorate or on his own initiative, to examine any person or persons employed in such mine, for the purpose of ascertaining whether any such want of understanding, knowledge, or skill, or any such mental, physical, or other incapacity or incompetency or inability to understand instructions, exists on the part of any person or persons so employed; and the employment in any mine of any person in whom such want of understanding or skill, or such mental, physical, or other incapacity or incompetency exists, or is found by the inspector to exist, shall be deemed to be a matter, thing, or practice within the meaning of this Act constituting a defect calculated to impair the efficiency of mining operations and to endanger the safety of persons employed in or about such mine, and an inspector may order the removal of any such person from such mine, and upon an inspector making such order such person shall be immediately removed from the mine.

80. An inspector ordering the removal of such person as aforesaid from a mine shall forthwith give notice of such order to the owner, agent, or manager of the mine, and any owner, agent, or manager who continues after receipt of such notice to employ such person in or about the mine shall be guilty of an offence against this Act.

81. If the owner, agent, or manager of the mine objects to any order of an inspector under either of the last two preceding sections, he may, within twenty-one days after receipt of the notice of such order, send his objection in writing, stating the ground thereof, to the Minister; and thereupon the matter shall be settled by arbitration in the manner provided by this Act, save and except that in such arbitration the parties to such arbitration shall be the owner, agent, or manager of the mine on the one hand, and an inspector (on behalf of the Minister) on the other; and the date of the receipt of such objection shall be deemed to be the date of the reference.

82. In case the award made on arbitration upholds the order of the Inspector, and the owner, agent, or manager fails to comply with such award, he shall be guilty of an offence against this Act, and the notice and award shall respectively be deemed to be written notice of such offence.

83. No person shall be precluded by any agreement from doing such acts as may be necessary to comply with the provisions of sections 78, 81, and 82 of this Act, or be liable under any contract to any penalty or forfeiture for doing such acts.

## PART VIII.

### PLANS OF MINES.

84. The owner, agent, or manager of every mine shall keep in the office at the mine an accurate plan of the workings of the mine, drawn to a scale of not less than one hundred feet to one inch, showing the working up to a date not more than three months previously, and the general direction and rate of dip of the strata, together with a section of the strata sunk through, or, if that be not reasonably practicable, a statement of the depth of the shaft, with a section of the seam; and he shall, on request at any time of an Inspector, produce to him at the office at the mine such plan and section, and shall also on the like request mark on such plan and section the then state of the workings of the mine; and the Inspector shall be entitled to examine the plan and section, and for official purposes only to make a copy of any part thereof.

85. If the owner, agent, or manager of any mine fails to keep or wilfully refuses to produce or allow to be examined the plan and section required in the last preceding section, or wilfully withholds any portion of any plan or conceals any part of the workings of his mine, or produces an imperfect or inaccurate plan, he shall be guilty of an offence against this Act; and, further, the Inspector may, by notice in writing (whether a penalty for such offence has or has not been inflicted), require the owner, agent, or manager to cause an accurate plan and section, such as is prescribed by the last preceding section, to be made within a reasonable time, at the expense of the owner of the mine, on a scale of not less than one hundred feet to one inch, or on the scale of the plan then used in the mine. If the owner, agent, or manager fail within twenty days, or such further time as may be allowed by the Inspector, to make or cause to be made such plan, he shall be guilty of an offence against this Act.

86. The owner, agent, or manager of such mine shall cause to be posted in some conspicuous place at or near the main openings of the mine, used for ingress or egress, a fairly accurate plan of such portions of the said mine as are in active operation, or may under any circumstances be used as a means of egress from any portion in active operation, and all roads used as a means of egress shall be conspicuously marked in the plan.

87. Each Inspector shall make an annual report of his proceedings to the Chief Inspector, who likewise shall make his annual report to the Minister, which report shall be laid before the Legislative Assembly.

88. The Minister may at any time direct an Inspector to make a special report with respect to any accident in a mine, which accident has caused loss of life or personal injury to any person, and in such case shall cause such report to be made public at such time and in such manner as he thinks expedient.

## PART IX.

### ARBITRATION.

89. With respect to arbitrations under this Act, the following provisions shall have effect:—

(1) The parties to the arbitration are in this section deemed to be the owner, agent, or manager of the mine on the one hand, and an Inspector (on behalf of the Minister) on the other:

(2) Each of the parties to the arbitration may, within twenty-one days after the date of the reference, appoint an arbitrator:

(3) No person shall act as arbitrator or umpire under this Act who is employed in or in the management of or is interested in the mine to which the arbitration relates:

(4) The appointment of an arbitrator under this section shall be in writing, and notice of the appointment shall be forthwith sent to the other party to the arbitration, and shall not be revoked without the consent of such other party:

(5) The death, removal, or other change in any of the parties to the arbitration shall not affect the proceedings under this section:

(6) If within the said twenty-one days either of the parties fail to appoint an arbitrator, the arbitrator appointed by the other party may proceed to hear and determine the matter in difference, and in such case the award of the single arbitrator shall be final:

(7) If before an award has been made any arbitrator appointed by either party die or become incapable to act, or for fourteen days refuse or neglect to act, the party by

whom such arbitrator was appointed may appoint some other person to act in his place; and if he fails to do so within fourteen days after notice in writing from the other party for that purpose, the remaining arbitrator may proceed to hear and determine the matters in difference, and in such case the award of such single arbitrator shall be final:

(8) In either of the foregoing cases where an arbitrator is empowered to act singly, upon one of the parties failing to appoint, the party so failing may, before the single arbitrator has actually proceeded in the arbitration, appoint an arbitrator who shall then act as if no failure had been made:

(9) If the arbitrators fail to make their award within twenty-one days after the day on which the last of them was appointed, or within such extended time (if any) as may have been appointed for that purpose by both arbitrators under their hands, the matter in difference shall be determined by the umpire appointed as hereinafter mentioned:

(10) The arbitrators, before they enter upon the matters referred to them, shall appoint by writing under their hands an umpire to decide on points on which they may differ:

(11) If the umpire die or become incapable to act before he has made his award, or refuses to make his award within a reasonable time after the matter has been brought within his cognizance, the persons or person who appointed such umpire shall forthwith appoint another umpire in his place:

(12) If the arbitrators refuse or fail or for seven days after the request of either party neglect to appoint an umpire, then on the application of either party an umpire shall be appointed by the Minister:

(13) The decision of every umpire on the matters referred to him shall be final:

(14) If a single arbitrator fail to make his award within twenty-one days after the day on which he was appointed, the party who appointed him may appoint another arbitrator to act in his place:

(15) The arbitrators and their umpire, or any of them, may examine the parties and their witnesses on oath; they may also consult any counsel, engineer, or scientific person whom they may think it expedient to consult:

(16) The payment (if any) to be made to any arbitrator or umpire for his services shall be fixed by the Minister, and, together with the costs of the arbitration and award, shall be paid by the parties, or one of them, according as the award may direct. Such costs may be taxed by the Registrar of the Supreme Court, who, on the written application of either of the parties, shall ascertain and certify the proper amount of such costs. The amount (if any) payable by the Minister shall be paid as part of the expenses of Inspectors under this Act. The amount (if any) payable by the owner, agent, or manager may, in the event of non-payment, be recovered in the same manner as penalties under this Act:

(17) Every person who is appointed an arbitrator or umpire under this section shall be a practical mining engineer, or a person accustomed to the working of mines; but when an award has been made under this section the arbitrator or umpire who made the same shall be deemed to have been duly qualified as provided by this section.

## PART X.

### INQUESTS.

90. With respect to coroners' inquests on the bodies of persons whose death may have been caused by explosions or accidents in mines, the following provisions shall have effect:—

(1) Where a Coroner holds an inquest upon the body of any person whose death may have been caused by any explosion or accident, of which notice is required by this Act to be given to the Inspector for the district, the Coroner shall adjourn such inquest unless the Inspector or some person on behalf of the Minister is present to watch the proceedings:

(2) The Coroner, at least four days before holding an adjourned inquest, shall send to the Inspector for the district notice in writing of the time and place of holding the adjourned inquest:

(3) The Coroner, before the adjournment, may take evidence to identify the body, and may order the interment thereof:

(4) If an explosion or accident has not occasioned the death of more than one person, and the Coroner has sent to the Inspector for the district notice of the time and place of holding the inquest not less than forty-eight hours before the time of holding the same, it shall not be imperative on him to adjourn such inquest in pursuance of this section, if the majority of the jury think it unnecessary so to adjourn:

(5) An Inspector or any other directly interested person or persons nominated in writing by such directly interested person shall be at liberty at any such inquest to examine any witness, subject nevertheless to the order of the Coroner:

(6) Where evidence is given at an inquest at which an Inspector is not present of any neglect as having caused or contributed to the explosion or accident, or of any defect in or about the mine appearing to the Coroner or jury to require a remedy, the Coroner shall send to the Inspector for the district notice in writing of such neglect or default:

(7) Any person having a personal interest in the management of the mine in which the explosion or accident occurred, and any person injured by such explosion or accident, or any relative of such person, or any official of a miners' union shall not be qualified to serve on the jury empanelled on the inquest; and it shall be the duty of the constable or other officer not to summon any person disqualified under this provision, and it shall be the duty of the Coroner not to allow any such person to be sworn or sit on the jury:

(8) On receipt of information that an inquest is to be held in accordance with this section, the Inspector shall cause a notice, giving the time and place of the holding of such inquest, to be posted in a conspicuous place at the mine:

(9) Every owner, agent, or manager of a mine shall, on the request of an Inspector, furnish such a plan as will show the locality of the accident and as may be required by the Inspector for the use of the Coroner and jury.

Every person who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act.

## PART XI.

### GENERAL RULES.

91. The following general rules shall be observed, so far as is reasonably practicable, in every mine:—

Rule 1. Every mine while being worked shall be thoroughly ventilated and furnished with an adequate supply of pure air to dilute and render harmless noxious gases to the intent that the working-places of the shafts, levels, stables, and workings of such mine, and the underground travelling-roads to and from such working-places, shall be in a fit state for working and passing therein, and where the ventilation is produced by a mechanical contrivance the apparatus shall be placed in such position and under such conditions as will tend to insure its being uninjured by an explosion: Provided that nothing in this rule contained shall prevent the installation of any auxiliary apparatus underground for the purpose of supplementing or augmenting the main system of ventilation in any mine.

Rule 2. An adequate supply of pure air shall mean not less than one hundred cubic feet per minute for each man or boy and not less than three hundred cubic feet per minute for each horse or mule employed in a mine, and as much more as the Inspector of Mines may direct, which shall sweep the face of each working-place, and a notice stating the quantity of air required shall be kept posted at the mouth of the mine by the Inspector of Mines whenever he directs that more air shall be furnished in a mine. Every mine shall be divided into districts or splits of not more than seventy men in each district, and each district shall be supplied with a separate current of fresh air. All intake air shall travel free from all stagnant water, stables, and places set apart for sanitary purposes, and, where practicable, also free from old workings, and every place shall be bratticed up within four yards of the face, and where open lights or explosives are used, or where electricity is used for power or lighting purposes, all brattice cloth or canvas and ventilating curtains shall be made fireproof. On all main roads where a door is required the Inspector of Mines may order that two doors shall be placed, so that while cars are being taken through the one the other shall remain closed and no air shall be lost.

Rule 3. Should the Inspector of Mines find the sectional area of the air-intake to be such that, to obtain the requisite quantity of air for ventilation, such velocity of air-current is or would be created as to raise and keep in suspension an undue quantity of dust, or that such dust is carried into the workings so as to be a source of danger, or should he consider that the cars, motors, or other appliances passing along such intake airway do materially interfere with the free passage and efficiency of such air-current, such Inspector may give notice in writing thereof to the owner, agent, or manager of the mine, as provided for in section 79 of this Act; and unless the same be forthwith remedied, the Inspector of Mines shall report the same to the Chief Inspector of Mines, who in turn shall report to the Minister of Mines.

Rule 4. In every mine in which inflammable gas has been found within the preceding twelve months, then once in every twenty-four hours if one shift of workmen is employed, and once in every twelve hours if two shifts are employed during any twenty-four hours, a competent person or competent persons holding a certificate of competency as a fireman, and who shall be appointed for the purpose, shall, within



three hours before the time for commencing work in any part of the mine, or, should the inspector of mines consider it necessary and so direct, within a shorter period of time, inspect with a locked safety-lamp that part of the mine and the roadways leading thereto through which persons have to pass, and shall make a true report of the condition thereof, and a workman shall not go to work in such part of the mine until the same and the roadways leading thereto are stated by the person or persons so inspecting to be safe. Every such report shall be recorded without delay in a book which shall be kept at the mine for the purpose, and shall be signed by the person making the same; and a true copy thereof shall forthwith be posted on a blackboard at the fireman's station. And at least once in every week a competent person or persons shall, with a locked safety-lamp, examine all air-courses, stoppings, sealings, overcasts, wastes, and abandoned workings where accessible, and shall in like manner make a true report and post a copy thereof as set forth in the preceding part of this rule.

In making such inspection the fireman shall use only a safety-lamp of a pattern approved by the Minister of Mines.

If, in the opinion of the inspector, from the quantity of inflammable gas given off or the quantity of dust created by working, or for any other cause, it is unsafe to work in the rooms or stalls two shifts in close succession, he may require that there shall be such interval as he thinks necessary between the finishing of work by one shift and the beginning of work by the next; and such inspector shall give notice in writing thereof to the agent, owner, or manager of the mine in the form and manner set out in section 79 of this Act. It shall be incumbent on the owner, agent, or manager to provide a suitable gas tester or testers, of a type or pattern to be approved by the chief inspector of mines, to enable the fireman to determine lower percentages of marsh-gas in the mine atmosphere of his district than can be determined by the ordinary safety-lamp.

Rule 5. In every mine in which inflammable gas has not been found within the preceding twelve months, then once in every twenty-four hours a competent person or competent persons, who shall be appointed for the purpose, shall, so far as is reasonably practicable, immediately before the time for commencing work in any part of the mine, inspect that part of the mine and the roadways leading thereto through which persons have to pass, and shall make a true report of the condition thereof, and a workman shall not go to work in such part until the same and the said roadways leading thereto are stated by the person or persons so inspecting to be safe. Every report shall be recorded without delay in a book which shall be kept at the mine for the purpose, and shall be signed by the person making the same; and a true copy thereof shall forthwith be posted on a blackboard at the fireman's station.

Rule 6. Every entrance to any place not in actual course of working and extension shall be properly fenced across the whole width of such entrance, so as to prevent persons inadvertently entering the same.

Rule 7. A station or stations shall be appointed at the entrance to the mine, or to different parts of the mine, as the case may require, and a workman shall not pass beyond any such station until the mine or part of the mine beyond the same has been inspected and stated by the person or persons so inspecting to be safe.

Rule 8. If at any time it is found by the person for the time being in charge of the mine or any part thereof that by reason of noxious gases prevailing in such mine or such part thereof, or of any cause whatever, the mine or the said part is dangerous, every workman shall be withdrawn from the mine or such part thereof as is so found dangerous, and a competent person, who shall be appointed for the purpose, shall inspect the mine or such part thereof as is so found dangerous, and if the danger arises from inflammable gas shall inspect the same with a locked safety-lamp, and in every case shall make a true report of the condition of such mine or part thereof, and a workman shall not, except in so far as is necessary for inquiring into the cause of danger or for the removal thereof, or for exploration, be readmitted into the mine, or such part thereof as was so found dangerous, until the same is stated by such report not to be dangerous. Every such report shall be recorded in a book which shall be kept at the mine for the purpose, and shall be signed by the person making the same.

Rule 9. In every working approaching any place where there is likely to be an accumulation of explosive gas, no lamp or light other than a locked safety-lamp shall be allowed or used, and whenever safety-lamps are required by this Act, or by the special rules made in pursuance of this Act, to be used, a competent person or persons, who shall be appointed for the purpose, shall examine every safety-lamp immediately before it is taken into the workings for use, and ascertain it to be secure and securely locked; and in any part of the mine in which safety-lamps are so required to be used, they shall not be used until they have been so examined and found secure and securely locked, and shall not be unlocked without due authority and at a regularly appointed station only; and no person, unless he is appointed for the purpose of unlocking such safety-lamp, shall have in his possession or use any key or contrivance for opening the lock of such safety-lamp, nor shall such key or contrivance be taken away or used in any other portion of the mine than such regularly appointed station



or stations; and no person shall have in his possession any lucifer match or apparatus of any kind for striking a light, or any pipe for smoking tobacco, or any tobacco for smoking, either as cigars, cigarettes, or in any other form. The owner, agent, or manager shall appoint a competent person or persons to search any employee in the mine for any articles prohibited by this rule, and the Inspector of Mines may order a search, for such purpose, of any employee whenever he deems it necessary, and any person refusing to submit to such search shall be deemed to be a source of danger to other persons in the mine within the meaning of section 79, and subject to all penalties of the said section. But nothing in this rule shall be so interpreted as to prevent the use of safety-lamps provided with a relighting apparatus within the tube of such lamp of a pattern approved of and permitted by the Minister of Mines, or to prevent the use of any shot-igniter, electric firer, or other appliance for such purpose if of a pattern approved of and permitted by the Minister of Mines.

Where it is necessary to work coal in any part of a ventilating district with safety-lamps, it shall not be allowable to work with a naked lamp in another part of the same ventilating district situated between the place where such safety-lamps are being used and the return airway.

Rule 10. In addition to the requirements of Rule 9, every safety-lamp so in use shall be tested in an explosive mixture of gas and air at least once every week, and should the glass, washers, gauze, or any of the essential parts of such lamp have been renewed after a lamp has been so tested, then such lamp shall be again tested; and any lamp which shall be shown by such test to be imperfect or ineffective shall not be allowed in any mine until such imperfection or ineffectiveness shall have been remedied and the lamp shall have passed a satisfactory test. No single-gauze safety-lamp shall be allowed in any mine, and every lamp shall be submitted to a mechanical air-test whenever assembled after being taken apart, and if shown by such test to be imperfect or ineffective its use shall not be permitted; and every colliery so using safety-lamps shall be equipped with apparatus for making such tests of some such form as shall be approved of by the Minister of Mines, and such tests shall be of such character as may from time to time be approved by the Minister of Mines. This rule shall not apply to a mine in which less than thirty persons are ordinarily employed underground.

Rule 11. Gunpowder or other explosive or inflammable substance shall only be used in the mine underground as follows:—

(a) It shall not be stored in the mine;

(b) It shall not be taken into the mine, except in a case or canister containing not more than four pounds;

(c) A workman shall not have in use nor in his possession at one time in any one place more than one of such cases or canisters, nor shall there be more than four pounds of powder in any such can: Provided, however, the Inspector may grant permission in writing that sufficient powder in such cases or canisters may be taken into the mine to serve one round of shots in rock-work or rock tunnels;

(d) In charging holes for blasting, an iron or steel pricker shall not be used, and a person shall not have in his possession in the mine underground any iron or steel pricker, and an iron or steel tamping-rod or stemmer shall not be used for ramming either the wadding or the first part of the tamping or stemming on the powder; fine coal or coal-dust or other inflammable substance shall not be used as tamping; and only clay or other non-inflammable substances shall be used for tamping or stemming, and such shall be provided by the owner, agent, or manager of the mine;

(e) No explosive shall be forcibly pressed into a hole of insufficient size, and when a hole has been charged the explosive shall not be unrammed, and no hole shall be bored for a charge at a distance of less than two feet from any hole where the charge has missed fire;

(f) Where a mine is divided into separate panels in such manner that each panel has an independent intake and return airway from the main air-course and the main return air-course, the provisions of this rule with respect to gun-powder or other explosive inflammable substance shall apply to each such panel in like manner as if it were a separate mine;

(g) It shall be illegal to use in any one shot any two classes, grades, or qualities of explosives;

(h) The thawing of explosives within any mine is strictly prohibited, except and until a special permit so to do has been obtained from the Minister of Mines, who may, should he see fit, issue such permit for a limited period of time, upon the recommendation of the Inspector of Mines for the district, and such permit shall state—

(1) The particular mine and part of such mine where such explosive may be thawed;

(2) The quantity of explosive allowed to be at or near such point at any one time;

(3) The class of powder allowed to be so thawed;

(4) The class of thawing apparatus allowed to be used in such place;

(5) Any further conditions or restrictions which the Minister of Mines may consider necessary for safety; and such permit may be suspended at any time by notice by the Inspector of Mines for the district given to the manager, or may be cancelled at any time by the Minister of Mines:

(i) No explosive shall be taken into or used in any mine unless such explosive shall be specially permitted and allowed by the Minister of Mines to be used in such mine. And the Minister of Mines shall from time to time cause to be published a list of permitted explosives, together with the conditions under which such explosives may be used. Any agent, owner, or manager desiring to use any explosive not contained in such permitted list may apply to the Minister of Mines to have such explosive placed on such permitted list, accompanying such application with full particulars as to qualities, strength, and ingredients of such explosive, and, if so requested, such guarantee as the Minister of Mines may require as to the maintenance of a uniform grade of such explosive. Should the Minister of Mines refuse to allow the use of such explosive or impose conditions considered by such agent, owner, or manager to be unnecessary, the question may be referred to arbitration, as provided by this Act:

(j) The owner, agent, or manager of any mine shall, upon demand of the Inspector of Mines, deliver to him, free of charge, a sample of reasonable size of each or any class of explosive, fuse, or detonator in use in such mine, or the Inspector of Mines shall have the power to take such sample himself from such explosive, fuse, or detonator as he may find in use in such mine. And the Inspector of Mines may forward such sample to the Minister of Mines, to be tested or analysed in any way that may be deemed fair, and should the Minister of Mines find such explosive, fuse, or detonator to be from any cause dangerous for use in such mine, he may restrict the conditions under which such explosive, fuse, or detonator may be used, or he may prohibit the use thereof either permanently or until such defect may be remedied to his satisfaction.

Rule 12. No explosive shall be used in any mine except in accordance with the following regulations:—

(1) (a) A competent person who shall be appointed for the purpose shall, immediately before the charging of any shot-hole, examine such hole, shall see the coal is well prepared, the shot properly placed, and that the borehole is well cleaned; he shall examine the character of explosive and shall regulate the quantity of such explosive to be used in such hole, and such hole shall be loaded in accordance with his instructions. He shall examine all places contiguous thereto within a radius of twenty-five yards, and shall not allow the shot to be fired unless he finds it safe to do so, and a shot shall not be fired except by or under the immediate direction of such competent person appointed for the purpose. In places where safety-lamps are required to be used no shot shall be fired except by means of some form of igniter approved by the Minister of Mines. After a shot is fired the shotlighter shall examine the place, and the men shall not begin work again in such place until it has been so examined and by him pronounced safe. In any coal face, room, or stall, a second hole shall not be loaded until such place shall have been examined by the shotlighter after firing the first shot and by him pronounced safe. In case of a shot missing fire it shall be the duty of the shotlighter to fence off such place and all approaches thereto outside of the danger zone, marking on such fence or fences "Missed-fire shot, keep out," with the date and the hour at which such shot missed fire, and such place shall not be entered by any person until it shall have been re-examined by a competent official after the lapse of time hereinafter specified, and by him pronounced safe and the danger-signals removed. In the case of an electric igniter having been used, the time which must elapse between the missing-fire of the shot and the time when the place may be re-entered shall be fifteen minutes, and in the case of a shot missing fire when any other means than an electric igniter is used shall be four hours:

(b) Detonators shall be kept under the control of some person appointed in writing by the manager for the purpose, and may be issued to shotlighters only, and no other person shall take any detonator into a mine. Shotlighters shall keep all detonators so issued to them in a locked case or box, of a pattern to be approved by the Minister of Mines, until about to be used, and no other explosive shall be carried in the same case or box with the detonators: Provided, however, that the Inspector may grant permission in writing that such locked cases or boxes containing detonators may be issued to miners, but a shotlighter shall be the only person in the mine who shall be permitted to carry or use the key for such cases or boxes; and provided further that where an electric igniter and electric fuses are used the miners may carry their own supply of detonators, but a shotlighter shall be the only person in the mine who shall be permitted to carry or use an electric igniter:

(c) It shall be unlawful for any person to expose any open case or canister containing explosives or any case or box containing detonators within fifty feet of a naked light on the intake side of the air-current, or within four feet in any other direction, or to prepare any charge with a naked light on his head:

(2) If the place where the shot is to be fired is dry or dusty, then the shot shall not be fired unless one of the following conditions is observed, that is to say:—

(a) Unless the place of firing and all contiguous and accessible places within a radius of twenty yards are at the time of firing in a wet state from a thorough watering, or other treatment equivalent to watering, in all parts where dust is lodged, whether roof, floor, or sides; or

(b) In the case of places in which watering would injure the roof or floor, unless the explosive is so used with water or other contrivance as to prevent it from inflaming gas or dust, or is of such a nature that it cannot inflame gas or dust; and all haulage or other roads that are dry or dusty shall, for a distance of forty yards from the place of firing, be watered sufficiently to allay dust:

(3) If inflammable gas issues so freely that it shows a blue cap on the flame of the safety-lamp, explosives shall only be used—

(a) Either in those cases of rock-drifts, rock-work, and sinking of shafts, in which the ventilation is so managed that the return air from the place where the explosive is used passes into the main return air-course without passing any place in actual course of working; or

(b) When the persons ordinarily employed in the mine are out of the mine or out of the part of the mine where it is used.

Rule 13. In any mine or part of a mine where, from the nature of the coal or the method of handling the same, an undue quantity of dust is produced either on the roadways or in the working-places, which may tend to cause danger of explosion, then all haulage-ways leading thereto and all haulage-roads and working-places in such section of the mine shall be thoroughly and effectively watered by some recognized and approved system of watering or other treatment equivalent to watering. If, in the opinion of the Inspector of Mines, an undue quantity of dust is produced and the method employed is not adequate or effective, he may notify the manager in writing, and proceed as provided in section 79 of this Act: Provided, however, that the provisions of this rule shall not apply to any mine or separate split or panel of such a mine if no explosive is permitted and safety-lamps are used in such separate part of the mine.

Rule 14. Where a place is likely to contain a dangerous accumulation of water, the working approaching such place shall not exceed eight feet in width, or such greater width as may be permitted by the Chief Inspector of Mines, and there shall be constantly kept at a sufficient distance, not being less than five yards in advance, at least one borehole near the centre of the working, and sufficient flank boreholes on each side.

Rule 15. Every underground plane on which persons travel, other than a working-place, not exceeding three hundred feet in length, which is self-acting or worked by an engine, windlass, or gin, shall be provided, if exceeding thirty yards in length, with some proper means of signalling between the stopping-places and the ends of the plane, and shall be provided at intervals of not more than twenty yards with sufficient manholes, five feet high where the height of the seam will permit, otherwise four feet high, by four feet wide and four feet deep and properly whitewashed, as places of refuge.

There shall be provided at every slope, underground plane, and incline, whether self-acting or otherwise, stop-blocks, derauling-switches, drags, or other suitable apparatus to effectively prevent accidents.

Rule 16. Every level on which persons travel underground where the load is drawn by mechanical means, or by a horse or other animal shall be provided, at intervals of not more than fifty yards, with sufficient manholes or with a space for a place of refuge, which space shall be of sufficient length and of at least three feet in width between the widest part of any vehicle used in such level and the side of such level.

Rule 17. Every manhole and space for a place of refuge shall be constantly kept clear, and no person shall place anything in a manhole or such space so as to prevent access thereto.

Rule 18. The top of every shaft which for the time being is out of use, or used only as an air-shaft, shall be securely fenced.

Rule 19. The top and all entrances between the top and bottom of every working or pumping shaft shall be properly fenced, but this shall not be taken to forbid the temporary removal of the fence for the purposes of repairs or other operations if proper precautions are used.

Rule 20. Where the natural strata are not safe, every working or pumping shaft shall be securely cased, lined, or otherwise made secure.

Rule 21. The roof and sides of all roads and working-places shall be made secure and of sufficient height and width to prevent injury to any animal travelling or working therein, and a person shall not, unless appointed for the purpose of exploring or repairing, travel or work in any such road or working-place which is not so made secure.

Rule 22. A reasonable supply of timber shall be constantly kept in each working-place, or where this is reasonably impracticable, then in the most convenient place in the vicinity thereof, for the purpose of insuring the safety of the persons employed in the mine.

Rule 23. In every mine the Inspector of Mines shall decide the maximum number of persons who may enter a cage for the purpose of being lowered or raised.

Rule 24. In any mine which is usually entered by means of machinery, a person of such age and mental and physical condition, as prescribed by section 5 of this Act, shall be appointed for the purpose of working the machinery which is employed in lowering and raising persons therein, and shall attend for the said purpose during the whole time that any person is in the mine.

Rule 25. Every working-shaft used for the purpose of drawing materials or for the lowering or raising of persons shall be provided with guides and some proper means of communicating distinct and definite signals to and from the bottom of the shaft, and every working entrance connected therewith, and with the surface: Provided, however, sinking shafts shall be exempted from the use of guides unless the Chief Inspector of Mines may deem the use of such guides necessary.

Rule 26. A sufficient cover overhead shall be used when lowering or raising persons in every working-shaft, except where the person or persons are employed about the pump or some work of repair in the shaft.

Rule 27. A single-linked chain shall not be used for lowering or raising persons in any working-shaft or plane, except for the short coupling chain attached to the cage or load.

Rule 28. There shall be on the drum of every machine used for lowering or raising persons, such flanges or horns, and also, if the drum is conical, such other appliances as may be sufficient to prevent the rope from slipping. If in any mine the winding apparatus is not provided with some automatic contrivance to prevent overwinding, then the cage, when men are being raised, shall not be wound up at a speed exceeding three miles an hour, after the cage has reached a point in the shaft to be fixed by the special rules.

Rule 29. There shall be attached to every machine worked by steam, water, or mechanical power, and used for lowering and raising persons, an adequate brake and also a proper indicator, in addition to any mark on the rope, which shows to the person who works the machine the position of the cage or load.

Rule 30. There shall be attached to every cage when used for lowering and raising persons in any shaft a proper and adequate automatic safety-clutch which will effectually prevent the falling of any cage upon the breaking of the rope:

Provided, however, that the Minister of Mines may exempt from the operation of this rule cages in shafts in which wire-rope guides are used.

Rule 31. Every fly-wheel and all exposed dangerous parts of the machinery used in or about the mine shall be kept securely fenced.

Rule 32. Every steam-boiler shall be provided with a proper steam-gauge and water-gauge, to show respectively the pressure of steam and the height of water in the boiler, and with a proper safety-valve.

Rule 33. After dangerous gas has been found in any mine, a barometer and thermometer shall be placed above ground in a conspicuous position at the entrance to the mine, and a water-gauge to show the ventilating-pressure shall be placed either in the fan-house or underground between the intake and return airways.

Rule 34. No person shall wilfully damage, or without proper authority remove or render useless, any fence, fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, steam-gauge, water-gauge, safety-valve, or other appliance or thing provided in any mine in compliance with this Act.

Rule 35. Every person shall observe such directions with respect to working as may be given to him with a view to comply with this Act or the special rules.

Rule 36. A competent person or competent persons who shall be appointed for the purpose shall, once at least in every twenty-four hours, examine the state of the external parts of the machinery and the state of the head-gear, working-places, levels, planes, ropes, chains, and other works of the mine which are in actual use, and once at least in every week shall examine the state of the shafts by which persons ascend or descend, and the guides or conductors therein, and shall make a true report of the result of such examination; and such report shall be recorded in a book to be kept at the mine for the purpose, and shall be signed by the persons who made the same.

Rule 37. The persons employed in a mine may from time to time appoint one or two of their number to inspect the mine at their own cost, and the persons so appointed shall be allowed, once or oftener in every shift, day, week, or month, accompanied, if the owner, agent, or manager of the mine thinks fit, by himself or one or more officers of the mine, to go to every part of the mine, and to inspect the shafts, levels, planes, working-places, return airways, ventilating apparatus, old workings, and machinery, and shall be afforded by the owner, agent, and manager, and all persons in the mine, every facility for the purpose of such inspection, and shall make a true report of the result of such inspection; and such report shall be recorded in a book to be kept at the mine for the purpose, and shall be signed by the persons who made the same. And if the report state the existence or apprehended existence of any danger, the person or persons making the inspection shall forthwith cause a true copy of the report to be sent to the Inspector of Mines for the district: Provided always that where the miners in any mine fail to appoint two of their number to inspect the mine, the Chief Inspector of Mines shall select from the men, in alphabetical order where possible, two competent miners, who shall comply with the provisions of this section, and the said owner, agent, or manager may withhold from the wages of the underground employees a sufficient sum *pro rata* to remunerate the persons making such examination.

Rule 38. The books mentioned in this section, or a copy thereof, shall be kept at the office of the mine, and any Inspector of Mines, and any person employed in the mine, may at all reasonable times inspect and take copies of and extracts from any such books.

Rule 39. Every cage used in any mine shall be stationary and shall rest upon chairs or catches before any person is allowed to enter upon or to leave the same. No person shall enter or leave a cage without the consent of the banksman or onsetter.

Rule 40. At every mine the owner shall provide one good and sufficient "ambulance box," to be approved by a medical practitioner, with an additional such box for each one hundred men employed on one shift above and under ground collectively.

Rule 41. In every mine where, by reason of its depth or the extent of its workings, egress to the surface cannot be conveniently obtained, there shall be provided suitable places for sanitary uses, which shall be deodorized and constantly maintained in a sanitary condition, and suitable outhouses for sanitary purposes shall be similarly maintained in convenient positions contiguous to the surface works thereof. It shall be incumbent on the owner, agent, or manager of such mine to maintain all bunk-houses, cook-houses, and wash-houses controlled by the said owner, agent, or manager in such cleanly and sanitary condition as may be approved by the Inspector of Mines.

Rule 42. No Chinaman or person unable to speak English shall be appointed to or shall occupy any position of trust or responsibility in or about a mine whereby through his ignorance, carelessness, or negligence he may endanger the life or limb of any person employed in or about a mine, namely: As banksman, onsetter, signalman, brakeman, switchman, furnaceman, engineer, or be employed at the windlass of a sinking pit.

Rule 43. Every person who contravenes or does not comply with any of the general rules of this section shall be guilty of an offence against this Act; and in the event of any contravention of or non-compliance with any of the said general rules by any person whomsoever, the owner, agent, and manager shall each be guilty of an offence against this Act unless he proves that he has taken all reasonable means by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine, to prevent such contravention or non-compliance.

#### Special Rules.

92. There shall be established in every mine to which this Act applies such rules (referred to in this Act as "special rules") for the conduct and guidance of the persons acting in the management of such mine or employed in or about the same as, under the particular state and circumstances of such mine, may appear best calculated to prevent dangerous accidents, and to provide for the safety and proper discipline of the persons employed in or about the mine; and such special rules, when established, shall be signed by the Chief Inspector and shall be observed in and about every such mine, in the same manner as if they were enacted in this Act.

93. If any person who is bound to observe the special rules established for any mine acts in contravention of or fails to comply with any of such special rules, he shall be guilty of an offence against this Act, and also the owner, agent, and manager of such mine, unless he proves that he had taken all reasonable means by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine so as to prevent such contravention or non-compliance, shall each be guilty of an offence against this Act.

94. The owner, agent, or manager of every mine to which this Act applies shall frame and transmit to the Chief Inspector, for approval by the Minister, special rules for such mine within three months after the commencement of any working for the purpose of opening a new mine or of renewing the working of an old mine.

95. The proposed special rules, together with a printed notice specifying that any objection to such rules on the ground of anything contained therein or omitted therefrom may be sent by any of the persons employed in the mine to the Chief Inspector, at his address stated in such notice, shall, during not less than two weeks before such rules are transmitted to the Chief Inspector, be posted up in like manner as is provided in this Act respecting the publication of special rules for the information of persons employed in the mine, and a certificate that such rules and notice have been so posted up shall be sent to the Chief Inspector with the rules signed by the person sending the same.

96. If the rules are not objected to by the Minister within forty days after their receipt by the Chief Inspector, they shall be established.

97. If the Minister is of opinion that the proposed special rules so transmitted, or any of them, do not sufficiently provide for the prevention of dangerous accidents in the mine, or for the safety of the persons employed in or about the mine, or are not in accordance with the spirit of this Act, or are unreasonable, he may within forty days after the rules are received by the Chief Inspector object to the rules, and propose to the owner, agent, or manager in writing any modifications in the rules by way either of omission, alteration, substitution, or addition.

98. If the owner, agent, or manager does not, within twenty days after the modifications proposed by the Minister are received by him, object in writing to them, the proposed special rules, with such modifications, shall be established.

99. If the owner, agent, or manager sends his objections in writing within the said twenty days to the Minister, the matter shall be referred to arbitration, and the date of the receipt of such objection by the Minister shall be deemed to be the date of the reference, and the rules shall be established as settled by an award on arbitration.

100. After special rules are established under this Act in any mine, the owner, agent, or manager of such mine may from time to time propose in writing to the Chief Inspector, for the approval of the Minister, any amendment of such rules or any new special rules, and the provisions of this Act with respect to the original special rules shall apply to all such proposed amendments and new rules in like manner, as near as may be, as they apply to the original rules.

101. The Minister may from time to time propose in writing to the owner, agent, or manager of the mine any new special rules, or any amendment to the special rules, and the provisions of this Act with respect to a proposal of the Minister for modifying the special rules transmitted by the owner, agent, or manager of a mine shall apply to all such proposed new special rules and amendments in like manner, as near as may be, as they apply to such proposal.

102. If the owner, agent, or manager of any mine makes any false statement with respect to the posting-up of the rules and notices, he shall be guilty of an offence against this Act; and if special rules for any mine are not transmitted within the time limited by this Act to the Chief Inspector for the approval of the Minister, the owner, agent, or manager of such mine shall each be guilty of an offence against this Act, unless he prove that he had to the best of his power taken all reasonable means for the transmission of such rules.

103. For the purpose of making known the special rules and provisions of this Act to all persons employed in or about each mine, an abstract of the Act, supplied on the application of the owner, agent, or manager of the mine by the inspector for the district on behalf of the Minister, and an entire copy of the special rules shall be published as follows:—

(1) The owner, agent, or manager of such mine shall cause such abstract and rules, with the name and address of the inspector for the district and the name of the owner or agent and of the manager appended thereto, to be posted up in legible characters in some conspicuous place at or near the mine, where they may be conveniently read by the persons employed, and so often as the same become defaced, obliterated, or destroyed shall cause them to be renewed with all reasonable despatch;

(2) The owner, agent, or manager shall supply a printed copy of the abstract and the special rules gratis to each person employed in or about the mine who applies for such copy at the office at which the persons immediately employed by such owner, agent, or manager are paid;

(3) Every copy of the special rules shall be kept distinct from any rules which depend only on the contract between the employer and employed.

In the event of any non-compliance with the provisions of this section by any person whomsoever, the owner, agent, and manager shall each be guilty of an offence against this Act, unless he prove that he had to the best of his power taken all reasonable means to prevent such contravention or non-compliance.

104. Every person who pulls down, injures, or defaces any proposed special rules or any notice, abstract, mine-plan, or special rules when posted up in pursuance of the provisions of this Act with respect to special rules, or any notice posted up in pursuance of the special rules, shall be guilty of an offence against this Act.

105. Every inspector shall, when required, certify a copy which is shown to his satisfaction to be a true copy of any special rules which for the time being are established under this Act in any mine, and a copy so certified shall be evidence (but not to the exclusion of other proof) of such special rules and of the fact that they are duly established under this Act, and have been signed by the inspector.

## PART XII.

### RESCUE WORK.

#### Devices to be Provided.

106. There shall be established by the owner, agent, or manager of every colliery such number of oxygen helmets or some form of mine rescue apparatus as may be approved by the Minister.

Such mine rescue apparatus shall be constantly maintained in an efficient and workable condition, and shall in all cases be so stored or placed in or about the mine as to always be available for immediate use.



## Rescue-stations.

The Lieutenant-Governor in Council may from time to time establish mine-rescue stations for the purpose of supplementing in case of need, the colliery installations of mine-rescue apparatus, and also for the purpose of training the holders of certificates of competency under this Act in the use of such mine-rescue apparatus as may be approved by the Minister; and it shall be incumbent on the owner, agent, or manager of every operating mine to have all certificated officials who are physically fit, and not less than three per cent of such number as the Chief Inspector may deem sufficient, of the workmen, trained in the use of such established mine-rescue apparatus:

Provided that in cases of emergency such stations shall be available for the use of any trained corps of mine-rescuers, duly qualified medical practitioners, or corps trained in the work of first aid to the injured, subject always to the order of an inspector.

## PART XIII.

## SUPPLEMENTAL.

## Further Offences and Penalties.

107. Every owner, agent, or manager of any mine, or any person who refuses to allow coal-miners to hold meetings and elect examiners, provided such meetings do not interfere with the working of the mine, or in any way interferes with the working of this Act, or who acts in contravention of its provisions, shall be guilty of an offence against this Act.

108. Every person employed in or about a mine, other than an owner, agent, or manager, who is guilty of any act or omission which in the case of an owner, agent, or manager would be an offence against this Act shall be deemed to be guilty of an offence against this Act.

109. Every person who is guilty of any offence against this Act shall, if no other penalty be prescribed elsewhere in this Act, be liable to a penalty not exceeding, if he is an owner, agent, or manager, one hundred dollars, and if he is any other person, ten dollars for each offence; and if the inspector has given written notice of any such offence, then in case of an owner, agent, or manager to a further penalty not exceeding one hundred dollars and not less than ten dollars for every day after such notice that such offence continues to be committed, and in cases of other persons, to a further penalty not exceeding five dollars for every day after such notice that such offence continues to be committed.

110. Where a person who is an owner, agent, or manager of or a person employed in or about a mine is guilty of any offence against this Act which in the opinion of the court that tries the case is one which was reasonably calculated to endanger the safety of the persons employed in or about the mine, or to cause serious personal injury to any of such persons, or to cause a dangerous accident, and was committed wilfully by the personal act, personal default, or personal negligence of the person accused, such person shall be liable, if the court is of opinion that a pecuniary penalty will not meet the circumstances of the case, to imprisonment with or without hard labour for a period not exceeding three months.

111. If any person feels aggrieved by any conviction made by a court of summary jurisdiction on determining any information under this Act, by which conviction imprisonment is adjudged in pursuance of the last preceding section, or by which conviction the sum adjudged to be paid amounts to or exceeds half the maximum penalty, the person so aggrieved may appeal therefrom.

112. All offences under this Act and all penalties under this Act, and all money and costs by this Act directed to be recovered as penalties, may be prosecuted and recovered in a summary manner before a Justice of the Peace.

113. The following provisions shall have effect:—

(1.) Any complaint or information made or laid in pursuance of this Act shall be made or laid within six months from the time when the matter of such complaint or information first arose:

(2.) The description of any offence under this Act, in the words of this Act, shall be sufficient in law:

(3.) Any exception, exemption, proviso, excuse, or qualification, whether it does or not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information; and if so specified or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the informant:

(4.) The owner, agent, or manager may, if he think fit, be sworn and examined as an ordinary witness in the case where he is charged in respect of any contravention or non-compliance by another person:

(5.) The Court shall, if required by either party, cause minutes of the evidence to be taken and preserved.



114. No prosecution shall be instituted against the owner, agent, or manager of a mine for any offence under this Act which can be prosecuted before a Court of summary jurisdiction, except by an Inspector or with the consent in writing of the Minister; and in the case of any offence of which the owner, agent, or manager of a mine is not alleged to be personally the perpetrator, an Inspector shall not institute any prosecution against such owner, agent, or manager if satisfied that he had taken reasonable means to prevent the commission of such offence.

115. Nothing in this Act shall prevent any person from being indicted or liable under any other Act or otherwise to any other or higher penalty or punishment than is provided for any offence by this Act, but no person shall be punished twice for the same offence. And if the Court before whom a person is charged with an offence under this Act thinks that proceedings ought to be taken against such person for such offence under any other Act or otherwise, the Court may adjourn the case to enable such proceedings to be taken.

116. A person who is a miners' union official, or the owner, agent, or manager of any mine, or any person holding stock or directly interested in such mine, or the father, son, or brother of such official, owner, agent, or manager, shall not act as a Court or member of a Court of summary jurisdiction in respect of any offence under this Act.

117. Where a penalty is imposed under this Act for neglecting to send a notice of any explosion or accident or for any offence against this Act, which has occasioned loss of life or personal injury, the Minister may, if he think fit, direct such penalty to be paid to or distributed among the persons injured and the relatives of any persons whose death may have been occasioned by such explosion, accident, or offence, or among some of them:

Provided that—

(1) Such persons did not, in his opinion, occasion or contribute to occasion the explosion or accident, and did not commit and were not parties to committing the offence;

(2) The fact of such payment or distribution shall not in any way affect or be receivable as evidence in any legal proceeding relative to or consequent on such explosion, accident, or offence.

Save as aforesaid, all penalties imposed in pursuance of this Act shall be paid into the Provincial Treasury.

#### Payment of Expenses.

118. It shall be lawful for the Lieutenant-Governor in Council to authorize the payment of all costs, remuneration, and expenses of and incidental to the carrying out of the provisions of this Act from the Consolidated Revenue Fund.

#### Power to make certain Rules.

119. The Lieutenant-Governor in Council shall have the power to issue, and from time to time vary, regulations and forms for carrying out the provisions of Parts I to X, both inclusive, of this Act, and such regulations shall, upon publication in the Gazette, be deemed part of this Act.

(Schedules omitted.)

### Inspection and Regulation of Metalliferous Mines.

Chapter 164.—1. This Act may be cited as the Metalliferous Mines Inspection Act.

#### Inspectors and their Duties.

2. The Lieutenant-Governor in Council may appoint an inspector or inspectors of metalliferous mines, and mines of whatever description other than mines to which the Coal Mines Regulation Act applies who shall be of at least seven years' practical experience in mining, whose duties shall be as hereinafter specified, and who shall receive such salary and allowances as shall be determined by the Lieutenant-Governor in Council; and before entering upon the discharge of his or their duties he or they shall take and subscribe an oath that he or they will discharge such duties faithfully; the provincial mineralogist shall have the powers and may exercise the functions conferred on an inspector of metalliferous mines by this Act.

3. The Minister of Mines shall, on receipt of reliable information relating to the health and safety of the workmen employed in any metalliferous mines in the province or whenever he deems such inspection necessary, instruct the inspector to examine and report to him the condition of such mine. The mine owner, agent, manager, or lessee respectively shall have the right to appeal on any difference that may arise between them and the inspector to the Minister of Mines. On receipt of notice of any serious accident in any mine, the Minister of Mines shall instruct the inspector to inquire into the cause of such accident.

4. The inspector shall exercise a sound discretion in the advancement of the objects of this Act, and in the enforcement of the regulations made hereunder; and if he shall find any matter, thing, or practice in or connected with any metalliferous mines to be dangerous or defective, so as to, in his opinion, threaten or tend to the bodily injury of any person, the inspector shall forthwith give notice in writing thereof to the owner, agent, manager, or lessee, stating in such notice the particulars in which he considers such mine, part thereof, or practice to be dangerous or defective, and he shall order the same to be remedied.

5. It shall be the duty of the inspector to forthwith post up, or cause to be posted up, in a conspicuous place at the mouth of the mine, or at some other conspicuous place thereon, a copy of such notice in order that workmen in and about the said mine may become aware of the contents thereof.

6. The Minister of Mines shall instruct the inspector to examine and report to him—

(a) The condition of the hoisting machinery, engines, boilers, winches, cages, cars, buckets, ropes, and cables in use in all the metalliferous mines in operation in the province;

(b) The appliances used for extinguishing fires;

(c) The manner and method of working and timbering the shafts, drills, inclines, stopes, winzes, tunnels, and upraises through which persons pass while engaged in their daily labours;

(d) The condition of all exits from the mine;

(e) How the mine is ventilated, together with the sanitary conditions of the same;

(f) How and where all explosives and inflammable oils and supplies are stored;

(g) The system of signals used in the mines.

The inspector shall not give notice to any owner, agent, manager, or lessee of the time when such inspection shall be made.

7. The inspector of mines shall not act as manager or agent or lessee for any mining or other corporation during the term of his office, but shall give his whole time and attention to the duties of the office to which he has been appointed; he shall not make a report on any mine or mining property for any person or persons interested in such mine or mining property, with intent to promote or aid in the sale or other conveyance thereof; and any officer violating this provision shall, upon summary conviction thereof, forfeit and pay a fine of not less than one hundred dollars nor more than one thousand dollars.

8. If the inspector shall reveal any information in regard to ore-bodies, chutes, or bodies of ore, or location, course, or character of underground workings, or give any information or opinion respecting any mine, obtained or formed by him in making such inspection, upon summary conviction thereof the said inspector shall be removed from office and fined in a sum not less than one hundred dollars nor more than one thousand dollars.

#### Inspector's Report.

The inspector shall make an annual report of his proceedings during the preceding year to the Minister of Mines, which report shall be laid before the Legislative Assembly.

10. The Minister of Mines may at any time direct an inspector to make a special report with respect to any accident in a mine to which this Act applies, which accident has caused loss of life or serious personal injury to any person; and in such case shall cause such report to be made public at such time and in such manner as he thinks expedient.

#### Duties of Owners, Managers, and Others.

11. Every owner, agent, manager, or lessee of any metalliferous mine in the province shall admit the inspector to such mine on the exhibition of his certificate of appointment, for the purpose of making the examination and inspection provided for in this Act, whenever the mine is in active operation; but the said inspector shall not unnecessarily obstruct the working of the said mine.

12. If the owner, agent, manager, or lessee refuse to admit the inspector to such mine, or to render him necessary assistance for inspection, such owner, agent, manager, or lessee shall be guilty of an offence against this Act, and shall be liable upon summary conviction to a fine of not less than ten nor more than five hundred dollars for each and every such refusal or neglect.

13. In case the owner, agent, manager, or lessee, after written notice being duly given, does not conform to or disregards any lawful order of the inspector made hereunder, or disobeys any regulation made hereunder, any court of competent jurisdiction may, on application or information of the Minister of Mines by civil action, enjoin or restrain, with costs, the owner, agent, manager, or lessee from working a mine until it is made to conform to the provisions of this Act; and such remedy shall be cumulative, any shall not affect any other proceedings against such owner, agent, manager, or lessee authorized by law for the matter complained of in such action.

14. Any owner, agent, manager, or lessee having charge of or operating any metaliferous mine, whenever loss of life or serious accident shall occur in connection with the working of such mine, shall give notice immediately, and report all facts thereof to the Minister of Mines and the inspector for the district in which such mine is situate; and the said inspector shall investigate and ascertain the causes and make a report, which shall be filed in the office of the Minister of Mines for future reference.

#### Returns by Owners and Others.

15. On or before the fifteenth day of each month, the owner, agent, manager, or lessee of every mine to which this Act applies who is actually engaged in the shipping or treating of ore from any such mine shall send to the Department of Mines a correct return, specifying with respect to such mine the following:—

(a) The name of the mine and its extent in acres, together with the name of the mining division in which it is situate;

(b) The name of the company or person operating the same. If the same company or person operates more than one mine in the same mining division, the returns may be given en bloc, but the names of all the mines must be specified;

(c) The quantity of ore shipped or treated during the previous month and the assay values thereof;

(d) Any other particulars deemed necessary by the Minister of Mines.

Such returns shall be in the form from time to time prescribed by the Minister of Mines.

16. The owner, agent, manager, or lessee of every mine to which this Act applies actually engaged in the shipping or treating of ore shall forthwith notify the mining recorder for the mining division in which such mine is situate of such fact, and also give the place of address to which forms for the return mentioned in the last preceding section hereof shall be forwarded; the said mining recorder shall thereupon forward to such address a supply of forms upon which such returns shall be made; but the failure of such owner, agent, manager, or lessee to apply for, or the mining recorder to furnish, such forms shall in no way relieve such owner, agent, manager, or lessee from forwarding such returns within the time hereinbefore provided.

17. It shall be lawful for the Lieutenant-Governor in Council to order such returns, or a summary thereof, to be made public.

18. On or before the fifteenth day of January in every year, the owner, agent, manager, or lessee of every mine to which this Act applies shall send to the Bureau of Mines a correct return, specifying with respect to the year ending on the preceding thirty-first day of December the quantity of metal or ore gotten from such mine, and the number of persons ordinarily employed in or about such mine above and below ground, and other information as may be required.

19. (1) Where in or about any mine to which this Act applies, whether above or below ground, either—

(a) Loss of life or any personal injury to any person employed in or about the mine occurs by reason of any explosion of gas, powder, or any steam boiler; or

(b) Loss of life or any serious personal injury to any person employed in or about the mine occurs by reason of any accident whatever,—

the owner, agent, manager, or lessee of the mine shall, within twenty-four hours next after the explosion or accident, send notice in writing of the explosion or accident, and of the loss of life or personal injury occasioned thereby, to the inspector for the district in which such mine is situate, and shall specify in such notice the character of the explosion or accident, and the number and names of persons killed and injured respectively.

(2) When any personal injury, of which notice is required to be sent under this section, results in the death of the person injured, notice in writing of the death shall be sent to the said inspector within twenty-four hours after such death comes to the knowledge of the owner or agent.

#### Opening New and abandoning Old Mines.

20. Where any working is commenced for the opening of a new mine, or the working of a mine is abandoned, the owner, agent, manager, or lessee of such mine shall, within two months after such commencement or abandoning, give notice thereof to the inspector for the district in which such mine is situate: Provided that this section shall only apply to any working or mine in which more than twelve persons are ordinarily employed below ground.

21. Where any mine to which this Act applies is abandoned, or the working thereof discontinued, at whatever time such abandonment or discontinuance occurred, the owner thereof, and every other person interested in the minerals of such mine, shall cause the top of the shaft, if there be such, to be and to be kept securely fenced for the prevention of accidents.

22. Where any mine to which this Act applies, in which more than twelve persons have ordinarily been employed below ground, is abandoned, the owner of such mine

at the time of the abandonment shall, within three months after such abandonment, send to the Minister of Mines an accurate plan, on a scale of not less than thirty feet to the inch, or on such other scale as the plan last used in the mine is constructed on, showing the boundaries of the workings of such mine up to the time of the abandonment, with the view of its being preserved under the care of the Minister of Mines, but no person except the inspector or the provincial mineralogist shall be entitled, without the consent of the owner of the mine, to see such plan when so sent until after the lapse of ten years from the time of abandonment: Provided that this section shall not apply to any mine opened up by means of tunnels or adit levels, below which extend no workings in which water may accumulate.

#### Plans of Mines.

23. The owner, agent, manager, or lessee of every mine to which this Act applies shall keep in the office of the mine, or in the principal office of the mines belonging to the same owner in the district in which the mine is situated, an accurate plan of the workings of such mine, showing the workings up to at least three months previously, other than workings which were last discontinued at a date more than twelve months before the eighth day of May, 1897.

24. The owner, agent, manager, or lessee of the mine shall produce to an inspector under this Act, at one of the aforesaid offices, such plan, and shall, if requested by the inspector, mark on such plan the progress of the workings of the mine up to the time of such production, and shall allow the inspector to examine the same.

25. If the owner, agent, manager, or lessee of any such mine fails to keep such plan as is prescribed by the last two preceding sections, or wilfully refuses to produce or allow to be examined such plan, or wilfully withholds any portion of any plan, or conceals any part of the workings of his mine, or produces an imperfect or inaccurate plan, unless he shows that he was ignorant of such concealment, imperfection, or inaccuracy, he shall be guilty of an offence against this Act; and, further, the inspector may, by notice in writing (whether a penalty for such offence has or has not been inflicted), require the owner, agent, manager, or lessee to cause an accurate plan, such as is prescribed by section 23 of this Act, to be made within reasonable time, at the expense of the owner or lessee of the mine, on a scale of not less than a scale of thirty feet to one inch, or on such other scale as the plan used in the mine is constructed on.

26. If the owner, agent, manager, or lessee fail, within twenty days, or such further time as may be shown to be necessary, after the requisition of the inspector, to make or cause to be made such plan, he shall be guilty of an offence against this Act.

27. Provided that the last four preceding sections shall apply only to a mine in which more than twelve persons are ordinarily employed below ground.

28. Any adjoining owner may apply to the inspector for the purpose of learning whether such mine is being worked into his territory, and upon such application being made the inspector shall examine the plans of such mine, and if necessary examine the workings of such mine, and make report thereon to such adjoining owner as to whether his territory is or is not being encroached on.

#### Register of Employees.

29. The owner, agent, manager, or lessee of any mine to which this Act applies shall keep in the office at the mine a register, and shall cause to be entered in such register the name, age, residence, and date of first employment of all boys under the age of sixteen years who are employed in the mines below ground, and of all women, boys, and children employed above ground in connection with the mine, and shall produce such register to any inspector under this Act at the mine at all reasonable times when required by him, and allow him to inspect and copy the same.

#### Place of Payment of Wages.

30. No wages shall be paid to any person employed in or about any mine to which this Act applies at or within any public-house, beer-shop, or place for the sale of any spirits, beer, wine, cider, or other spirituous or fermented liquor, or other houses of entertainment, or any office, garden, or place belonging or contiguous thereto or occupied therewith.

#### GENERAL RULES.

31. The following general rules shall, so far as may be reasonably practicable, be observed in every mine to which this Act applies:—

##### Ventilation.

(1) An adequate amount of ventilation shall be constantly produced in every mine to such an extent that the shafts, winzes, sumps, levels, stopes, and working-places of such mine, and the travelling roads to and from such working-places, shall be in a fit state for working and passing therein.

### Explosives.

(2) Gunpowder, dynamite, or other explosive or inflammable substance shall not be stored or thawed anywhere underground in the mine, but shall be stored in a magazine provided only for this purpose. The said magazine shall be placed far enough from any shaft, tunnel, engine, or mining buildings as to insure their remaining intact in case of the explosion of the stock of explosive in the said magazine.

(3) All explosives in excess of the amount required for a shift's or day's work shall be kept in the magazine.

(4) Each mine shall have a suitable device for thawing such explosives as require it, and such device shall be heated only by the use of hot water or steam.

(5) Oils, candles, and other inflammable substances, fuse and detonating-caps shall not be stored with the explosives.

(6) An iron or steel tamping-rod shall not be used for ramming or tamping the wadding or first part of the tamping on the explosives.

### Fire Protection.

(7) Every plant using steam where boiler, engine, blacksmith-shop, and shaft are in the same building shall have a hose and hose-connection to injector or feed-pump, and keep the same ready for instant use, and the line of hose shall be sufficient to reach the farthest point of said plant.

(8) All permanent buildings for housing boilers, engines, and machinery shall be erected at a distance of not less than fifty feet from the mouth of any mine.

(9) In every mine where hoisting is employed either for the carriage of persons or mineral, the following code of mine signals shall be used, but it shall be lawful for the Lieutenant-Governor in Council to modify or alter such code of mine signals to suit conditions which may arise. The code of mine signals, as modified or altered by virtue of the provisions of this subsection, shall have force and effect only after the same has been published for two successive months in the Gazette; and any amended code of mine signals shall be laid before the Legislative Assembly within the first fifteen days of the session next after the date thereof:—

### BRITISH COLUMBIA CODE OF MINE SIGNALS.

#### Hoisting.

1 Bell .....Stop immediately—if in motion.

1 Bell .....Hoist (See Rule C).

2 Bells.....Lower (See Rule C).

3 Bells.....Caution—"Men On" (See Rule D).

This is a caution signal—not a signal to move—and means, when the next signal to move is given, "proceed slowly and with extra care," in accordance with such signal.

4 Bells.....Blasting or "Ready to Shoot" Signal (See Rule E).

This is a caution signal, and if the engineer is prepared to accept it he must acknowledge it by raising bucket a few feet and letting it back slowly.

This signal, *once accepted*, takes precedence over all others, and 1 Bell, given when miners are in bucket, is signal to hoist away from blast.

2 Bells, double pause, followed by station signal (2 — — station signal) calls cage of skip to that station (See Rule A).

#### Station Signals.

| Station.   | Signals. |        |        | Station.    | Signals. |        |        |
|------------|----------|--------|--------|-------------|----------|--------|--------|
|            | Bells.   | Pause. | Bells. |             | Bells.   | Pause. | Bells. |
| No. 1..... | 2        | —      | 1      | No. 11..... | 4        | —      | 1      |
| " 2.....   | 2        | —      | 2      | " 12.....   | 4        | —      | 2      |
| " 3.....   | 2        | —      | 3      | " 13.....   | 4        | —      | 3      |
| " 4.....   | 2        | —      | 4      | " 14.....   | 4        | —      | 4      |
| " 5.....   | 2        | —      | 5      | " 15.....   | 4        | —      | 5      |
| " 6.....   | 3        | —      | 1      | " 16.....   | 5        | —      | 1      |
| " 7.....   | 3        | —      | 2      | " 17.....   | 5        | —      | 2      |
| " 8.....   | 3        | —      | 3      | " 18.....   | 5        | —      | 3      |
| " 9.....   | 3        | —      | 4      | " 19.....   | 5        | —      | 4      |
| " 10.....  | 3        | —      | 5      | " 20.....   | 5        | —      | 5      |

Example.—Ore-pocket under station 7 shall be signalled 3—2—1  
 “ “ “ 2—3—1

This signal takes precedence over all others, except an accepted Blasting Signal.

3-2-3 Bells....Send down picks.

The engineer, before acknowledging the Blasting signal, must stand ready to hoist immediately on required signal. Having acknowledged and accepted such signal, the engineer must not quit his post, and must not allow anything or anybody to interfere with his prompt obedience of the signal to "hoist away" from blast.

Rule F.—Timber, tools, etc., longer than the length of bucket or skip, or placed within a cage, must be securely lashed in place before being lowered or hoisted.

Rule G.—Printed copies of this Code of Signals shall be posted in engine-room in front of engineer, on gallows frame, at such working-station in the mine, and elsewhere as the Inspector may direct, and should such copies become at all illegible, they must be replaced promptly by fresh ones.

(10) The bell-rope or other device for signalling shall be so constructed that signals can be sounded clearly and easily at the surface from any station, landing, or level.

#### Hoisting and landing Men.

(11) The hoisting or lowering of employees at any mine shall be expressly permitted or positively prohibited.

(12) Every working vertical shaft in which persons are lowered or raised shall, if exceeding three hundred feet in depth, be provided with a cage and guides. Such cage to be provided with a sufficient iron or steel covering or hood and catches.

(13) The person in charge of the machinery for raising or lowering men must be a male of at least eighteen years of age; but in no case shall the person in charge be of the Chinese or Japanese race.

#### Employment Underground.

(14) No person shall be employed underground in any metalliferous mine for more than eight hours in every twenty-four hours.

#### Employment of Females, Children, and Boys.

(15) No boy under the age of twelve years, no woman or girl of any age, and no Chinese or Japanese person shall be employed in, or allowed to be for the purpose of employment in, any mine to which this Act applies below ground.

#### Daily Inspection of Mine.

(16) A competent person or persons who shall be appointed for the purpose shall, once at least every twenty-four hours, examine the state of the external parts of the machinery, and the state of head-gear, working-places, levels, inclines, ropes, and other works of the mine which are in actual use, and once at least in every week shall examine the state of the shafts or inclines by which persons ascend or descend, and the guides, timbers, and ladder-ways therein; shall make a true report of the result of such examination, and such report shall be recorded in a book to be kept at the mine for the purpose, and shall be signed by the person who made the same.

#### Shafts.

(17) Every shaft, incline, or stope in which mechanical appliances for hoisting are used, and which is a means also of travel for employees, shall be of at least two compartments, and shall be well timbered.

(18) The top of every shaft shall be covered or so protected as to prevent persons or foreign objects falling into the said shaft.

(19) All vertical shafts of a depth of at least fifty feet shall be provided with a cross-head and guide, and such cross-head shall descend as such shaft is sunk, so that at no time shall it be at a greater distance from bottom of the shaft than thirty feet.

#### Stations.

(20) Each station or landing shall have a passage-way around one side of the shaft where the level or drift extends both ways from the said shaft.

#### Ladder-ways.

(21) A ladder permanently used for the ascent or descent of persons in the mine shall be sufficiently strong for the purpose demanded, and shall be firmly fastened and kept in good repair. In a vertical shaft the ladder shall not be fixed in a vertical or overhanging position, and shall be inclined at the most convenient angle which the space in which the ladder is fixed allows, and every such ladder shall have substantial platforms at intervals of not more than twenty feet.

(22) The said platform shall be closely covered, with the exception of an opening large enough to permit the passage of a man, and shall be so arranged that by no means could a person fall from one ladder through the opening to the next ladder.

(23) The ladder-way in a shaft, incline, or stope shall be separated by a strong partition from the compartment or division of the shaft, incline, or stope in which the material of the mine is hoisted.

(24) A chain ladder twenty feet in length shall extend from the bottom of the wooden ladder to the bottom of the shaft.

#### Winzes and Mill-holes.

(25) Each winze or mill-hole extending from one level or drift to another level or drift shall be protected at the top by a cover or a guard-rail.



## Exits.

(26) As soon as it is practicable, each mine shall have two or more exits from the said mine, and levels or drifts driven each way from a shaft, or incline, or stope shall be connected by upraises or winzes equipped with ladders to provide exits or means of escape in case of accident.

## Timbering.

(27) Each shaft, incline, stope, tunnel, level, or drift, and any working-place in the mine, shall be, when necessary, kept securely timbered or protected to prevent injury to any person from falling material.

(28) No stope or drift shall be carried on in any shaft which shall have attained a depth of two hundred feet, unless suitable provision shall have been made for the protection of workmen engaged therein, by the construction of a bulkhead of sufficient strength or by leaving at least fifteen feet of solid ground between the said stope or drift and the workmen engaged in the bottom of such shaft.

## Gauges to Steam-boilers.

(29) Every steam-boiler shall be provided with a proper steam-gauge and water-gauge, to show respectively the pressure of steam and height of water in the boiler, and with a proper safety-valve.

## Hours of Labour of Stationary Engineers.

(30) Every person who, being employed in or about a metalliferous mine in which the machinery hereinafter mentioned shall be operated for more than twenty hours in any twenty-four, (1) operates any direct-acting, geared, or indirect-acting hoisting machine exceeding fifty horse-power, or (2) operates any stationary engine or electric motor exceeding fifty horse-power, and shall perform any such duties for more than eight hours in any twenty-four, shall be guilty of an offence under this Act.

(31) Any person, corporation, or company who shall induce or persuade any person or persons to do any act, matter, or thing in contravention of the last preceding subsection hereof shall be guilty of an offence under this Act; but it shall not be deemed an offence under this or the last preceding subsection if any person operates any such machinery for more than the period mentioned for the purpose of relieving another employee in case of accident, sickness, or other unforeseen cause.

## Observance of Directions.

(32) Every person shall observe such directions with respect to working as may be given to him with a view to comply with this Act.

(33) Every person who contravenes or does not comply with any of the general rules of this section shall be guilty of an offence against this Act; and in the event of any contravention of or non-compliance with any of the said general rules in the case of any mine, by any person whomsoever, the owner or lessee, agent, and manager shall each be guilty of an offence against this Act unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine, to prevent such contravention or non-compliance.

32. The Lieutenant-Governor in Council may from time to time make such rules or regulations for the safety of mines, in addition to these herein laid down and not inconsistent therewith, as may be deemed advisable for the protection of the miners, and in and by such rules or regulations may impose fines or penalties for the infraction thereof not exceeding those imposed in and by this Act; and the said rules and regulations shall have the force of law after they have been advertised for four weeks in the Gazette.

## Penalties and their Enforcement.

33. Every owner, agent, manager, or lessee of a mine to which this Act applies who is guilty of any act or omission in contravention of the provisions or requirements of this Act shall be deemed guilty of an offence against this Act.

34. Every person employed in or about a mine other than an owner, agent, manager, or lessee, who is guilty of any act or omission which in the case of an owner, agent, manager, or lessee would be an offence against this Act shall be deemed guilty of an offence against this Act.

35. Every person who is guilty of any offence against this Act shall, unless some other penalty is imposed by this Act, be liable to a penalty not exceeding, if he is an owner, agent, manager, or lessee, one hundred dollars, and if he is any other person, ten dollars, for each offence; and if the inspector has given written notice of any such offence, then in case of an owner, agent, manager, or lessee, to a further penalty not exceeding one hundred dollars and not less than ten dollars for every day after such notice that such offence continues to be committed, and in cases of other persons, to a further penalty not exceeding five dollars for every day after such notice that such offence continues to be committed.

36. Where a person who is an owner, agent, manager, or lessee of or a person employed in or about a mine is guilty of any offence against this Act which in the opinion of the court that tries the case is one which was reasonably calculated to endanger the safety of the persons employed in or about the mine, or to cause serious personal injury to any of such persons, or to cause a dangerous accident, and was committed wilfully by the personal act, personal default, or personal negligence of the person accused, such person shall be liable, if the court is of opinion that a pecuniary penalty will not meet the circumstances of the case, to imprisonment, with or without hard labour, for a period not exceeding three months.

37. All offences under this Act, and all penalties under this Act, and all money and costs by this Act directed to be recovered as penalties, may be prosecuted and recovered in a summary manner before a justice of the peace.

38. The following provisions shall have effect:—

(1) Any complaint or information made or laid in pursuance of this Act shall be made or laid within six months from the time when the matter of such complaint or information respectively arose:

(2) The description of any offence under this Act in the words of this Act shall be sufficient in law:

(3) Any exception, exemption, proviso, excuse, or qualification, whether it does or not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information; and if so specified or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the informant:

(4) The owner, agent, manager, or lessee may, if he think fit, be sworn and examined as an ordinary witness in the case where he is charged in respect of any contravention or non-compliance by another person:

(5) The court shall, if required by either party, cause minutes of the evidence to be taken and preserved.

39. No prosecution shall be instituted against the owner, agent, manager, or lessee of a mine to which this Act applies for any offence under this Act which can be prosecuted before a court of summary jurisdiction except by an inspector, or with the consent in writing of the Minister of Mines; and in the case of any offence of which the owner, agent, manager, or lessee of a mine is not alleged to be personally the perpetrator, if he proves that he had taken all reasonable means to prevent the commission thereof, an inspector shall not institute any prosecution against such owner, agent, manager, or lessee, if satisfied that he had taken such reasonable means as aforesaid.

40. Nothing in this Act shall prevent any person from being indicted or liable under any other Act or otherwise to any other or higher penalty or punishment than is provided for any offence by this Act, so that no person be punished twice for the same offence. And if the court before whom a person is charged with an offence under this Act think that proceedings ought to be taken against such person for such offence under any other Act, or otherwise, the court may adjourn the case to enable such proceedings to be taken.

41. A person who is the owner, agent, manager, or lessee of any mine to which this Act applies, or the father, son, or brother of such owner, agent, or manager, shall not act as a court or member of a court of summary jurisdiction in respect of any offence under this Act.

42. If any person feel aggrieved by any conviction made by a court of summary jurisdiction on determining any information under this Act, the person so aggrieved may appeal therefrom.

43. Where a penalty is imposed under this Act for neglecting to send a notice of any explosion or accident or for any offence against this Act which has occasioned loss of life or personal injury, the Minister of Mines may (if he think fit) direct such penalty to be paid to or distributed among the persons injured and the relatives of any persons whose death may have been occasioned by such explosion, accident, or offence, or among some of them:

Provided that—

(1) Such persons did not, in his opinion, occasion, or contribute to occasion, the explosion or accident, and did not commit and were not parties to committing the offence:

(2) The fact of such payment or distribution shall not in any way affect or be receivable as evidence in any legal proceeding relative to or consequential on such explosion, accident, or offence.

Save as aforesaid, all penalties imposed in pursuance of this Act shall be paid into the Provincial Treasury.

#### Licensing of Chauffeurs.

Chapter 169 with amendment.—18. No person under the age of seventeen years shall drive or operate a motor upon or along any highway.

No intoxicated person or person under the influence of intoxicating liquor shall drive a motor upon or along any highway.

No chauffeur shall have, direct, operate, or use a motor upon or along any highway unless such chauffeur has been licensed pursuant to the provisions of this Act, and holds a current and unexpired license issued under and by virtue of the provisions of this Act. Provided, however, that a non-resident chauffeur who has registered or been licensed under provisions of law in the country, State, or Province of his residence shall, while operating or driving a motor registered under the provisions of subsection (1) of section 8 of this Act, and during the period of time limited by said subsection only, be exempt from license under this section: Provided further he shall wear the badge assigned to him in the country, State, or Province of his residence affixed to his clothing in a conspicuous place. 1913, c. 4, s. 10.

Every chauffeur and every person desiring or intending to act as a chauffeur within the Province shall apply for a license to act as a chauffeur under and pursuant to the provisions of this Act in that behalf:

(1) Any person upon whom it shall be incumbent to apply for a license as a chauffeur shall, in respect of any neglect or refusal to apply for such licence, be guilty of an offence against this Act;

(2) Any person wilfully making in any such application for a license as a chauffeur any statement knowing the same to be false shall be guilty of an offence against this Act;

(3) The provisions of this section shall not apply to motors owned by municipal corporations, or as part of a public fire department, or to ambulances.

19. Every applicant for a license to act as a chauffeur in the Province under this Act shall sign and forward to the Superintendent of Provincial Police, or leave at the office of a chief constable of Provincial police or deliver at the office of the nearest Government Agent for transmission to the Superintendent of Provincial Police, an application.

20. Every license to a chauffeur issued under this Act shall expire on the thirty-first day of December next following its issuance, and thereafter on the thirty-first day of December in each renewal year. Every chauffeur shall pay for his license an annual fee of five dollars.

21. Upon receipt from an applicant for a license as chauffeur of the application in form by the Act prescribed, the Superintendent of Provincial Police may, upon being satisfied of the truth of the facts stated in the application and of the fitness and capability of the applicant to act as a chauffeur, and that the fee prescribed by this Act has been duly paid, issue to the applicant a license to act as a chauffeur. . . .

(1.) The Superintendent of Provincial Police, shall, at the time of the issue of a license under this section, also issue and deliver to each chauffeur so licensed a suitable metal badge having thereon the license number assigned to such chauffeur:

(a) Such badge shall be of a distinctly different colour for each year, and shall be valid only during the term of the license of the chauffeur to whom it is issued as aforesaid:

(b) This badge shall thereafter be worn by such chauffeur, affixed to the front of his hat or cap in a conspicuous place, at all times while he is operating, driving, or in charge of a motor upon any highway:

(c) No chauffeur having been licensed as herein provided shall voluntarily permit any other person to possess or use his license or badge; nor shall any person while operating, driving, or in charge of a motor use or possess any chauffeur's license or badge belonging to another person, or a fictitious or invalid chauffeur's license or badge:

(d) In the event of the loss, mutilation, or destruction of a chauffeur's badge, such chauffeur may obtain from the Superintendent of Provincial Police a duplicate thereof or a substitute therefor upon filing in the office of the Superintendent of Provincial Police an affidavit setting out the fact, and the payment of a fee of one dollar. 1913, c. 46, s. 11.

22. Every licensed chauffeur shall, if he wish to renew his license, on or before the fifteenth day of December in each year, apply for a renewal thereof, and such application shall be accompanied with a fee of five dollars to cover renewal period.

23. In the event of any licensee holding a chauffeur's license issued under this Act contravening any of the provisions of this Act, or by reason of reckless or negligent driving, or by reason of the use of intoxicants, or for any other reason becoming, in the opinion of the Superintendent of Provincial Police, unfit to act as a chauffeur, the Superintendent of Provincial Police, shall upon proof to his satisfaction of the fact or existence of such contravention or unfitness, and without the necessity of holding any formal or public or other hearing, either cancel such chauffeur's license absolutely, or suspend such chauffeur's license and all rights of the licensee thereunder for such period as the Superintendent of Provincial Police may think fit. In the event of cancellation of license, all the rights of the licensee thereunder shall forthwith abate and cease absolutely.

(Forms omitted.)

### Prison Labour.

\*Chapter 180.—16. The Lieutenant-Governor in Council may from time to time direct or authorize the employment upon any specific work or duty, beyond the limits of any common gaol, of any prisoner who, after a prior sentence of imprisonment for any breach of any law of Canada or of any province of Canada, is sentenced to be imprisoned with hard labour in such gaol under the authority of any statute of British Columbia, or for the breach of the by-law of any municipal corporation in this province.

### Protection of Wages on Public and Subsidized Works and on Works by Chartered Companies.

Chapter 191.—1. This Act may be cited as the Public Works Wages Act

#### Protection of Workmen.

2. In case a contractor for the construction of a public work, let under contract with His Majesty, or a member of the Executive Council of British Columbia, acting for and on behalf of His Majesty or any sub-contractor, in the construction of any such public work, makes default in the payment of the wages of any foreman, workman, or labourer employed on the work, or in payment of any sum due by the contractor or sub-contractor for labour done by such foreman, workman, or labourer, or by any team employed on the work, if the claim for such wages or sum is filed in the office of the member of the Executive Council entering into the contract for and on behalf of His Majesty, or having the supervision of the execution of the contract where the same is made with His Majesty, not later than two months after the same becomes due, and satisfactory proof thereof is furnished to him, he may cause such claim to be paid, to the extent of any moneys, or securities at the time of the filing of the said claim in the hands of the Crown for securing the performance of the contract.

3. The said member of the Executive Council may, in writing, require every or any contractor or sub-contractor for the construction of any public work to file in the office of the said member of the Executive Council, not later than the fifteenth day of each month, a list showing the names, rates of wages, amounts paid and amounts due and unpaid for wages or labour done by any foreman, workman, labourer, or team employed by the contractor or sub-contractor during the previous month; and such list shall be attested upon oath or statutory declaration of the contractor or sub-contractor, or his authorized agent.

4. Every contractor or sub-contractor aforesaid who having received such demand makes default in forwarding such list in accordance with the provisions of the last preceding section shall incur a penalty not exceeding one hundred dollars, and not less than ten dollars, for every day during which such default continues, and the amount of such penalty within the above limits shall be determined by the member of the Executive Council under whom the work is being executed, and may be deducted out of the moneys in the hands of the Crown deposited by or owing such contractor, and shall be vested in His Majesty for the use of the province.

5. When default is made by a sub-contractor in furnishing such list, the penalty for such default hereinbefore provided may be recovered with costs at the suit of the Crown in any court of competent jurisdiction.

6. Where any subsidy, advance, loan, or bonus of money is authorized by the Legislature to be granted to any company or person towards the construction of any railway or other work, it shall, in the absence of special provision by the Legislature to the contrary, be deemed a condition of the grant that so much of the money may be retained as the Lieutenant-Governor in Council may think proper to secure the payment of claims for wages of persons employed on such railway or other work, whether by such company or by any contractor or sub-contractor, or for sums due or to become due for labour of persons or teams so employed; and in the event of any such claim for such wages or for any such sum remaining unpaid for thirty days after notice thereof has been served on such member of the Executive Council as may be charged with the duty of seeing that the conditions upon which such aid is granted, and the provisions of the Act of the Legislature respecting the same, are duly carried out, the Lieutenant-Governor in Council may, upon being satisfied that such claim is due and unpaid, direct that it be paid together with all proper costs and charges in connection therewith out of any moneys so retained.

7. Every company incorporated under any general or special Act of the Legislature shall be liable for the payment of the wages of all foremen, workmen, labourers, or teams employed in the construction of any such work in the province, as is referred to in the last preceding section, done by or for the company, whether directly under the company or through the intervention of any contractor or sub-contractor: Provided that nothing herein contained shall be construed in any way to prejudice or affect the right of any such workman against any such contractor or sub-contractor under any other Act or law in force in the province.

8. In case default is made by any contractor or sub-contractor in payment of the wages of any such foreman, workman, or labourer, a notice, stating the name of the claimant and the amount of wages claimed, shall be served upon the company by or on behalf of the claimant not later than two months after such wages are payable, and in default of such notice the liability imposed by the last preceding section shall cease. The said notice, and any summons, notice, order, or other process required to be served upon the company in the prosecution of any action under the last preceding section, may be served upon the president, vice-president, secretary, managing director, superintendent, or engineer, or any recognized officer representing the company, or by leaving the same with any adult person at the office or usual place of abode of any of them.

### Railways—Definition of Terms.

Chapter 194 with amendment.—2. "Minister" means the Minister of Railways of the province.

"Deputy Minister" means the Deputy Minister of Railways of the province.

"Department" means the Department of Railways of the province.

"Company" means a railway company incorporated under this Act, and includes every person and every company by Act of the Legislature authorized to construct, or to own, or to operate a railway within the province. 1913, c. 56, s. 2.

"Railway" means any railway which the company is authorized to construct and operate, and shall include all branches, sidings, stations, depots, wharfs, rolling-stock, equipment, works, property, real or personal, and works connected therewith, and also every railway bridge, tunnel, or other structure connected with the railway and undertaking of the company.

"Highway" shall include any public road, street, lane, or other public way or communication.

"Special Act" means any Act of the Legislature heretofore passed authorizing the construction and operation of a railway.

### Railways—Application of Act.

Chapter 194.—3. The provisions of this Act shall apply to every company heretofore incorporated under special Act, and whether or not such company has or has not already constructed its railway, except in so far as the provisions of this Act or any of them are by express provisions in the special Act prevented from applying to the company, and express mention in this behalf in any special Act of any section in any Act by this Act repealed shall, for the purposes of this section, be deemed to be an express mention of any corresponding section in this Act.

4. Every railway company heretofore incorporated by special Act shall have and may exercise, in addition to the powers conferred by the special Act, all the powers conferred upon a company by this Act.

### Telegraph Wires, etc., across Railways.

Chapter 194 with amendment.—167a. (1) No lines or wires for telegraphs, telephones, or the conveyance of light, heat, power, or electricity shall be erected, placed, or maintained across the railway without leave of the Minister.

(2) Upon any application for such leave, the applicant shall submit to the Minister a plan and profile of the part of the railway proposed to be affected, showing the proposed location of such lines and wires and the works contemplated in connection therewith.

(3) The Minister may grant such application, and may order by whom, how, when, and on what terms and conditions and under what supervision such work shall be executed.

(4) Upon such order being made, such lines and wires may be erected, placed, and maintained across the railway subject to and in accordance with such order.

(5) An order of the Minister shall not be required in cases in which wires or other conductors for the transmission of electrical energy are to be erected or maintained over or under a railway, or over or under wires or other conductors for the transmission of electrical energy with the consent of the railway company or the company owning or controlling such last-mentioned wires or conductors, in accordance with any general regulations, plans, or specifications adopted or approved by the Minister for such purposes. 1915, c. 51, s. 2.

### Railway, Bridges, Tunnels, etc.

Chapter 194.—173. (1) Every bridge, tunnel, or other erection or structure over, through, or under which any railway passes shall be so constructed and maintained as to afford at all times an open and clear headway of at least seven feet between the

top of the highest freight car used on the railway and the lowest beams, members, or portions of that part of such bridge, tunnel, erection or structure which is directly over the space liable to be traversed by such car in passing thereunder.

(2) The Minister may, by certificate under his hand and seal of office, require any existing bridge, tunnel, or other erection or structure to be reconstructed or altered, within such time as he may order, so as to comply with the requirements mentioned in the last preceding subsection; and any such bridge, tunnel, or other erection or structure when so reconstructed or altered shall thereafter be maintained accordingly.

(3) Except by leave of the Minister granted by certificate under his hand and seal of office, the space between the rail-level and such beams, members, or portions of any such structure shall in no case be less than twenty-two feet six inches.

(4) If in any case it is necessary to raise, reconstruct, or alter any bridge, tunnel, erection or structure not owned by the company, the Minister, upon application of the company, and upon notice to all parties interested, or without any application, by certificate under his hand and seal of office, may make such order, allowing or requiring such raising, reconstruction, or alteration, and upon such terms and conditions as to the Minister shall appear just and proper and in the public interest.

### Fair Wages for Railway Employees.

Chapter 194.—176. (1) All employees, mechanics, labourers, or other persons who perform labour in, upon, and about the railway and undertaking of the company shall be paid such wages as are generally accepted as current for similar occupation in the district in which the work is being performed; and if there is no current rate in such district, then a fair and reasonable rate.

(2) In the event of a dispute arising as to what is the current or a fair and reasonable rate, it shall be determined by the Minister, by certificate under his hand and seal of office, whose decision shall be final and binding upon and shall be conformed to and obeyed by the company and all its employees.

### Inspection of Railways.

Chapter 194.—179. (1) Whenever any complaint is made to the Minister, or the Minister receives information that any railway or any portion thereof is dangerous to the public using the same, from want of renewal or repair, or insufficient or erroneous construction, or from any other cause, or whenever circumstances arise which, in his opinion, render it expedient, the Minister may direct an inspecting engineer to examine the railway or any portion thereof.

(2) The Minister may, upon the report of the inspecting engineer, by certificate under his hand and seal of office, order any repairs, renewal, reconstruction, alteration, or new work, materials, or equipment to be made, done, or furnished by the company upon, in addition to, or substitution for any portion of the railway which may from such report appear to the Minister necessary or proper, and may order that until such repairs, renewals, reconstruction, alteration and work, materials or equipment are made, done and furnished to his satisfaction, no portion of the railway in respect of which such order is made shall be used, or used otherwise than subject to such restrictions, conditions, and terms as the Minister may in such certificate impose.

(3) The Minister may by such certificate condemn and thereby forbid further use of any rolling-stock which from such report he may consider unfit to repair or use.

180. (1) If in the opinion of any inspecting engineer it is dangerous for trains to pass over any railway or any portion thereof until alterations, substitutions, or repairs are made thereon, or that any of the rolling-stock should be run or used, the said engineer may, by notice in writing,—

(a) Forthwith forbid the running of any train over such railway or portion of railway; or

(b) Require that the same be run only at such times, under such conditions, and with such precautions as he by such notice specifies; and

(c) Forbid the running or using of any such rolling-stock.

(2) Such notice shall state the reasons for such opinion of the inspecting engineer, and distinctly point out the defects or the nature of the danger to be apprehended.

(3) The notice may be served upon the company owning, running, or using such railway or rolling-stock, or upon any officer having the management or control of the running of trains upon the railway, or the management or control of the rolling-stock.

(4) The inspecting engineer shall forthwith report such notice to the Minister, who may, by certificate under his hand and seal of office, either confirm, modify, or disallow the act or order of such engineer.

(5) Notice of such confirmation, modification, or disallowance shall be given to the company.

### Operation of Trains—Safety Appliances.

Chapter 194.—181. (1) Every company shall provide and cause to be used on all trains modern and efficient apparatus, appliances, and means,—

(a) To provide immediate communication between the conductor while in any car of any passenger train and the engine driver;

(b) To check at will the speed of the train, and bring the same safely to a standstill as expeditiously as possible, and, except under circumstances of sudden danger or emergency, without causing undue discomfort to passengers (if any) on the train; and

(c) To securely couple and connect the cars composing the train with couplers which couple automatically by impact, and which can be uncoupled without the necessity of men going in between the ends of the cars.

(2) Such apparatus, appliances, and means for the checking of the speed or the stopping of any train shall include a power drive-wheel brake and appliances for operating the train brake system upon the locomotive.

(3) There shall also be such a number of cars in every train equipped with power or train brakes that the engineer on the locomotive drawing such train can control its speed, or bring the train to a stop in the quickest and best manner possible, without requiring brakemen to use the common hand brake for that purpose.

(4) Upon all trains carrying passengers such system of brakes shall be continuous, instantaneous in action, and capable of being applied at will by the engine driver or any brakeman; and the brakes must be self-applying in the event of any failure in the continuity of their action.

(5) All box freight cars of the company, shall, for the security of railway employees, be equipped with—

(a) Outside ladders, on two of the diagonally opposite ends and sides of each car, projecting below the frame of the car, with one step or rung of each ladder below the frame, the ladders being placed close to the ends and sides to which they are attached; and

(b) Hand-grips placed anglewise over the ladders of each box car and so arranged as to assist persons in climbing on the roof by means of the ladders:

Provided that, if there is at any time any other improved side attachment which, in the opinion of the Minister, is better calculated to promote the safety of the train-hands, the Minister may, by certificate under his hand and seal of office, require all cars to be fitted with the said improved attachment.

(6) Every company shall adopt and use upon all its rolling stock such height of draw-bars as the Minister by certificate as aforesaid, determines, in accordance with any standard from time to time adopted by competent railway authorities.

182. The Minister may, subject to the requirements of the last preceding section, upon application, by certificate under his hand and seal of office, order that any apparatus or appliance specified in such order, shall, when used upon the train in the manner and under circumstances in such certificate specified, be deemed sufficient compliance with the provisions of the last preceding section.

183. The oil-cups or other appliances used for oiling the valves of every locomotive in use upon any railway shall be such that no employee shall be required to go outside the cab of the locomotive, while the same is in motion, for the purpose of oiling such valves.

184. Every locomotive engine shall be equipped and maintained with a bell of at least thirty pounds weight and with a steam whistle.

186. The Minister may, by certificate under his hand and seal of office, make regulations—

(a) Designating the number of men to be employed upon trains;

(d) Generally providing for the protection of property and the protection, safety, accommodation, and comfort of the public, and of the employees of the company, in the running and operation of trains by the company.<sup>1</sup>

### Railway Employees to wear Badges.

Chapter 194.—197. Every employee of the company employed in a passenger train or at a passenger station shall wear upon his hat or cap a badge which shall indicate his office, and he shall not without such badge be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, or to interfere with any passenger or his baggage or property.

<sup>1</sup>The Department of Railways has issued a number of very important regulations under the authority of this section. The regulations with respect to railway safety appliance standards made by the Board of Railway Commissioners for Canada have been adopted in British Columbia, and the Provincial Railway Department has issued rules for the inspection of safety appliances. Two other sets of regulations issued by the Department relate to the equipment and operation of railways and street railways, respectively. Uniform rules governing examinations of railway employees to determine visual acuity, colour perception and hearing have also been adopted.



### Transportation of Explosives.

[Chapter 194, sections 203 and 204, deals with the transportation of explosives on railways.]

#### Safety Provisions—Packing.

Chapter 194.—205. (1) The spaces behind and in front of every railway frog or crossing, and between the fixed rails of every switch, where such spaces are less than four inches in width, shall be filled with packing up to the underside of the head of the rail.

(2) The spaces between any wing-rail and any railway frog, and between any guard-rail and the track-rail alongside of it, shall be filled with packing at their splayed ends, so that the whole splay shall be so filled where the width of the space between the rails is less than four inches.

(3) Such packing shall not reach higher than to the under side of the head of the rail.

(4) Such packing shall consist of wood or metal, or some equally substantial and solid material, of not less than two inches in thickness, and where by this section any space is required to be filled in on any railway shall extend to within one and a half inches of the crown of the rails in use, shall be neatly fitted so as to come against the web of such rails, and shall be well and solidly fastened to the ties on which such rails are laid.

#### Accidents on Railways—Investigations.

Chapter 194.—208. (1) Every company shall, as soon as possible, and immediately after the head officers of the company have received information of the occurrence upon the railway belonging to such company of any accident attended with personal injury to any person using the railway, or to any employee of the company, or whereby any bridge, culvert, viaduct, or tunnel on or of the railway has been broken or so damaged as to be impassable or unfit for immediate use, give notice thereof, with full particulars, to the Minister.

(2) The Minister may, by certificate under his hand and seal of office, declare the manner and form in which such information and notice shall be given and the class of accidents to which this section shall apply, and may declare any such information so given to be privileged.

209. (1) The Minister may, by certificate under his hand and seal of office, appoint such person or persons as he thinks fit to inquire into all matters and things which he deems likely to cause or prevent accidents, and the causes of and the circumstances connected with any accident or casualty to life or property occurring on any railway, and into all particulars relating thereto.

(2) The person or persons so appointed shall report fully, in writing, to the Minister, his or their doings and opinions on the matters respecting which he or they are appointed to inquire, and the Minister may act upon such report, and may by certificate as aforesaid order the company to suspend or dismiss any employee of the company whom he may deem to have been negligent or wilful in respect of any such accident.

#### Rules for Railway Employees.

Chapter 194.—262. The company may, subject to the provisions and restrictions in this Act contained, make by-laws, rules, or regulations respecting—

(g) The employment and conduct of the officers and employees of the company; and

(h) The due management of the affairs of the company.

263. The company may, for the better enforcing of the observance of any such by-law, rule, or regulation, thereby prescribe a penalty not exceeding forty dollars for any violation thereof.

264. All by-laws, rules and regulations, whether made by the directors or the company, shall be reduced to writing, be signed by the chairman or person presiding at the meeting at which they are adopted, have affixed thereto the common seal of the company, and be kept in the office of the company.

265 (1) All such by-laws, rules and regulations, except such as relate to tolls and such as are of a private or domestic nature and do not affect the public generally, shall be submitted to the Minister for approval.

(2) The Minister may, by certificate under his hand and seal of office, sanction such by-laws, rules and regulations, or any of them or any part thereof, and may from time to time rescind the sanction thereof or any part thereof.

(3) No such by-law, rule, or regulation shall have any force or effect without such sanction.

266. Such by-laws, rules and regulations when so approved shall be binding upon and shall be observed by all persons, and shall be sufficient to justify all persons acting thereunder.

267. (2) A printed copy of so much of any by-law, rule, or regulation as relates to the conduct of or affects the officers or employees of the company shall be given to every officer and employee of the company thereby affected.

268. If the violation or non-observance of any by-law, rule, or regulation is attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, the company may summarily interfere, using reasonable force, if necessary, to prevent such violation, or to enforce observance, without prejudice to any penalty incurred in respect thereof.

### Railways—Actions for Damages.

Chapter 194.—269. (1) All actions or suits for indemnity for any damages or injury sustained by reason of the construction or operation of the railway shall be commenced within one year next after the time when such supposed damage is sustained, or, if there is continuation of damage, within one year next after the doing or committing of such damage ceases, and not afterwards.

(2) In any such action or suit the defendants may plead the general issue, and may give this Act and the special matter in evidence at the trial, and may prove that the said damages or injury alleged were done in pursuance of and by the authority of this Act.

(3) Nothing in this section shall apply to any action brought against the company upon any breach of contract, express or implied, for or relating to the carriage of any traffic, or to any action against the company for damages under the provisions of this Act respecting tolls.

(4) No inspection had under this Act, and nothing in this Act contained, and nothing done or ordered or omitted to be done or ordered, under or by virtue of the provisions of this Act, shall relieve, or be construed to relieve, any company of or from or in anywise diminish or affect any liability or responsibility resting upon it, either towards His Majesty or towards any person, or the wife or husband, parent or child, executor or administrator, heir or personal representative, of any person, for anything done or omitted to be done by such company, or for any wrongful act, neglect, or default, misfeasance, malfeasance, or non-feasance of such company.

### Returns of Railway Accidents.

Chapter 194.—280. (1) Every company shall, within one month after the first days of January and July in each and every year, make to the Minister, under statutory declaration of the president, secretary, or superintendent of the company, a true and particular return of all accidents and casualties, whether to life or property, which have occurred on the railway of the company during the half year next preceding each of the said periods respectively, setting forth—

(a) The causes and natures of such accidents and casualties;

(b) The points at which they occurred, and whether by night or by day; and

(c) The full extent thereof, and all the particulars of the same.

(2) Such company shall also, when required by the Minister, return a true copy of the existing by-laws of the company and of its rules and regulations for the management of the company and of its railway.

(3) The Minister may, by summary order, direct from time to time the form in which such returns shall be made up.

281. The Minister may, by summary order, direct any company to make up and deliver to the Minister from time to time, in addition to the said periodical returns, returns of serious accidents occurring in the course of the public traffic upon the railway belonging to such company, whether attended with personal injury or not, in such form and manner as the Minister deems necessary and requires for his information with a view to public safety.

282. All returns made in pursuance of any of the provisions of this Part of this Act shall be privileged communications, and shall not be evidence in any Court whatsoever, except in any prosecution for—

(a) Default in making such returns in accordance with the requirements of this Act;

(b) Perjury in making any statutory declaration required by this Act in connection with such returns;

(c) Forgery of any such return; or

(d) Signing any such return knowing the same to be false.

**Liability of Railway Company for Negligence of Employees.**

Chapter 194.—291. (1) Any company or any director or officer thereof, or any receiver, trustee, lessee, agent or person acting for or employed by such company, that does, causes, or permits to be done any matter, act, or thing contrary to the provisions of this Act, or to the orders or directions of the Lieutenant-Governor in Council, or of the Minister, or of any inspecting engineer, made under this Act, or omits to do any matter, act, or thing thereby required to be done on the part of any such company or person, shall, for and in respect of any and every such act and every such omission, be guilty of an offence against this Act.

(2) Such company, director, officer, receiver, trustee, lessee, agent, or person shall also, in any case, in addition to any penalty imposed for such offence, be liable to any person injured by any such act or omission for the full amount of damages sustained thereby.

292. (1) For the purpose of enforcing any penalty under any of the provisions of this Act, or enforcing any regulation, order, or direction of the Lieutenant-Governor in Council, the Minister, or any inspecting engineer, made under this Act, the act, omission, or failure of any officer, agent or other person acting for or employed by the company shall, if within the scope of his employment, in every case be also deemed to be the act, omission, or failure of such company.

(2) Anything done or omitted to be done by the company, which if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by the company, would constitute an offence under this Act, shall also be held an offence committed by such company, and upon conviction of any such offence the company shall be subject to the like penalties as are prescribed by this Act with reference to such persons.

**Employment of Children—School Attendance.**

Chapter 206 with amendment.—140. Every child from the age of seven to fourteen, inclusive, shall attend some school, or be otherwise educated, for six months in every year, and any parent or guardian who does not provide that every such child under his care shall attend some school or be otherwise educated shall be subject to the penalties hereinafter provided by this Act. But in city school districts and in rural municipality school districts whose boards of school trustees shall by resolution so decide, every child within the age limits hereinbefore mentioned shall attend school during the regular school hours every school day, subject to the exemptions provided for in section 142 of this Act. 1912, c. 38, s. 8.

141. It shall be the duty of the trustees of every public school, or of the superintendent of education, or any person authorized by them or him, after having been notified that the parents or guardians of any child continue to neglect or violate the provisions of the last preceding section, to make complaint of such neglect or violation to a magistrate or justice of the peace; and it shall be competent for the police magistrate of any city or town, and for any magistrate or justice of the peace in any town or school district where there is no police magistrate, to investigate and decide in a summary manner upon any such complaint made by the trustees, or any person authorized by them, against any parent or guardian for violation of the said last preceding section, and to impose a fine not exceeding five dollars for the first wilful offence, and double that penalty for each subsequent offence, which fine and penalty shall be enforced as provided in section 147 of this Act.

142. It shall be the duty of the police magistrate, or any magistrate or justice of the peace where there is no police magistrate, to ascertain, as far as may be, the circumstances of any person complained of for not sending his child or children to some school, or otherwise educating him or them; and he shall accept any of the following as a reasonable excuse:—

(a) That the child is being educated by some other means satisfactory to such magistrate or justice:

(b) That the child is prevented from attending school by sickness or any other unavoidable cause:

(c) That there is no public school open which the child can attend within a distance of three miles, measured according to the nearest passable road from the residence of such child:

(d) That such child has reached a standard of education of the same or of a greater degree than that to be attained in such public school.

**Inspection and Regulation of Mercantile Establishments and Bakeshops—Hours of Labour—Employment of Children, etc.**

Chapter 211 with amendments.—1. This Act may be cited as the Shops Regulation Act.

## Division of Act.

2. This Act is divided into two parts, relating to the following subjects:—  
Part

I.—Municipal Regulations as to closing Shops.

II.—Regulations governing Employers and certain Shops.

## PART I.

## MUNICIPAL REGULATIONS AS TO CLOSING SHOPS.

## Interpretation.

3. Unless the context otherwise requires, the following words and expressions in the part of this Act, and in any by-law passed thereunder, shall have the meaning hereby assigned to them respectively, that is to say:—

"Shop" means any building or portion of a building, booth, stall, or place where goods are exposed or offered for sale by retail, or where the business of a barber or hair-dresser is carried on, but not where the only trade or business carried on is that of a tobacconist, news-agent, hotel, inn, tavern, victualling-house, or refreshment-house, nor any premises wherein, under license, liquor as defined by section 2 of the 'Municipal Act' is sold by retail for consumption on the premises, nor auction-rooms, pawn-brokers' shops, nor shops in which second-hand goods or wares are bought, sold, or offered for sale, nor premises where a barber or hair-dresser is attending a customer in the customer's residence. 1915, c. 57, s. 2.

"Closed" means not open for the serving of any customer.

"Municipality" means the city, town, township, or district municipality, the municipal council whereof, either upon application made in that behalf or otherwise, passes any by-law under the provisions of this Act.

## Hours of Closing.

4. Any municipal council may, by by-law, require that during the whole or any part or parts of the year all or any class or classes of shops within the municipality shall be closed and remain closed on each and any day of the week at and continuously after or for the time and hour fixed or appointed in that behalf by the by-law, as follows:—

(1) On any statutory legal holiday, for the whole or any part of such day.

(2) On any one or more half-holidays in any one week, made such by a municipal by-law, the hour for closing shall not be earlier than twelve o'clock noon of such day.

(3) On any other day of the week, provided the hour fixed or appointed by such by-law in such case for the closing shall not be earlier than six of the clock in the afternoon of any such day: Provided that in municipalities in the electoral districts of Fernie and Cranbrook the hour fixed or appointed by such by-law shall not be earlier than five of the clock in the afternoon of any such day.

5. If any application be received by or presented to a municipal council, praying for the passing of a by-law requiring the closing of any class or classes of shops situate within the municipality, and the council be satisfied that such application is signed by not less than three-fourths in number of the occupiers of shops within the municipality and belonging to the class or each of the classes to which such application relates, the council shall, within one month after the receipt or presentation of such application, pass a by-law giving effect to the said application and requiring all shops within the municipality belonging to the class or classes specified in the application to be closed during the period of the year and at the times and hours mentioned in that behalf in the application.

6. The council, in estimating such number of occupiers of shops belonging to the class or classes to which such application relates, shall take into consideration such shops only as are defined by section 3 of this Act.

7. A Municipal Council, may by by-law, make regulations as to the form of any application to be made under the preceding sections of this Act, and as to the evidence to be produced respecting the proportion of persons signing such application, and as to the classification of shops for the purposes of the said preceding sections, and it shall not be compulsory upon a Council to pass a by-law under the said preceding sections unless and until, with respect to the application made therefor, all such regulations have been duly observed.

8. If the application mentioned in the last three preceding sections be delivered to the clerk of a Council, it shall be deemed to have been presented to and received by the Council within the meaning of the said preceding sections.

9. Every such by-law shall take effect at a date named therein, being not less than one nor more than two weeks after the passing thereof, and shall, before that date, be published in such manner as to the Council passing the by-law may appear best fitted to insure the publicity thereof.

10. A Municipal Council shall not have the power to repeal a by-law passed pursuant to section 5 of this Act, except as provided in the next following section.

11. If at any time it is made to appear to the satisfaction of a Municipal Council that more than one-half in number of the occupiers of shops to which any by-law passed by the Council under the authority of section 5 of this Act relates, or of any class of such shops, are opposed to the continuance of such by-law, the Council may repeal the said by-law, or may repeal the same in so far as it affects such class of shops as aforesaid; but any such repeal shall not affect the power of the Council to thereafter pass another by-law under any of the foregoing provisions of this Act.

12. A shop in which trades of two or more classes are carried on shall be closed for the purpose of all such trades at the hour at which it is by any such by-law required to be closed for the purpose of that one of such trades which is the principal trade carried on in the shop.

13. A pharmaceutical chemist, or chemist and druggist, shall not, nor shall any occupier of or person employed in or about a shop, be liable to any fine, penalty, or punishment under any such by-law for supplying medicines, drugs, or medical appliances after the hour appointed by such by-law for the closing of shops; but nothing in this section contained shall be deemed to authorize any person whomsoever to keep open shop after the said hour.

14. Nothing in any such by-law contained shall render the occupier of any premises liable to any fine, penalty, or punishment for supplying any article to any person lodging in such premises, or for supplying any article required for immediate use by reason or because of any emergency arising from sickness, ailment, or death; but nothing herein contained shall be deemed to authorise any person whomsoever to keep open shop after the hour appointed by such by-law for the closing of shops.

15. Where an offence for which the occupier of a shop is liable under any such by-law to any fine, penalty, or punishment has, in fact, been committed by some agent or servant of such occupier, such agent or servant shall be liable to the same fine, penalty, or punishment as if he were the occupier.

16. When the occupier of a shop is charged with an offence against any such by-law, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the said occupier proves to the satisfaction of the Court that he has used due diligence to enforce the execution of the provisions of the by-law, and that the said other person committed the offence in question without his knowledge, consent, or connivance, or wilful neglect or default, the said occupier shall be exempt from any fine, penalty, or punishment, but the said other person shall thereupon be summarily convicted of such offence and shall be liable to the same fine, penalty, or punishment therefor as if he were the occupier.

17. Subject to the provisions in the preceding sections of this Act contained, any by-law passed by a municipal council under the authority of this Act, shall, for all purposes whatsoever, be deemed and taken to have been passed under and by authority of the "Municipal Act" and as if the preceding sections of this Act had formed part of the "Municipal Act" and the preceding sections of this Act and the "Municipal Act" shall be read and construed together as if forming one Act.

18. Nothing in the preceding sections of this Act or in any by-law passed under authority thereof shall be deemed to render unlawful the continuance in a shop, after the hour appointed for the closing thereof, of any customers who were in the shop immediately before that hour, or the serving of such customers during their continuance therein.

19. This Act is hereby declared to apply to the cities of Vancouver and New Westminster, and the councils of the said cities of Vancouver and New Westminster shall have all the powers and duties given to municipal councils by this Act.

## PART II.

### REGULATIONS GOVERNING EMPLOYERS AND CERTAIN SHOPS.

#### Further Interpretation.

20. In this part of this Act, unless the context otherwise requires,—

"Shop" means any retail or wholesale shop, store, booth, stall, or warehouse in which assistants are employed for hire;

"Young person" means any boy or girl under the age of sixteen years;

"Employer" means any person who in his own behalf, or as manager, superintendent, overseer, or agent for any person, firm, company, or corporation, has charge of any shop and employs persons therein;

"Week" means the period between midnight on Sunday night and midnight on the succeeding Saturday night;

"Parent" means a parent or guardian of, or a person having the legal custody of or the control over, or having direct benefit from the wages of, a child or young person:

"Bake-shop" means any building, premises, workshop, structure, room, or place wherein is carried on the manufacture or sale of confectionery, or of bread, biscuits, cakes, or any other food product made from flour, or from meal, or from both, in whole or in part, and the said bake-shop shall include, also, any room or rooms used for storing the confectionery, bread, cakes, biscuits and other food products.

"Inspector" means, in municipalities, the person appointed by the municipal council to discharge the duties of inspector under the provisions of this Act; and in unorganized districts it means the inspector of factories. 1912, c. 40, s. 2.

### Hours of Labour of Young Persons in Shops.

21. A young person shall not be employed in or about a shop for a longer period than sixty-six and one-half hours, including meal-times, in any one week; nor shall a young person be so employed during any Saturday for more than thirteen hours, including meal-times, nor during any other day for more than eleven hours, including meal-times, unless a different apportionment of the hours of labour per day has been made for the sole purpose of giving a shorter day's work on some other day of the week; and there shall be allowed as meal-times to every young person so employed not less than one hour for the noonday meal on each day, and to every young person so employed on any day to an hour later than seven of the clock in the afternoon, not less than forty-five minutes for another or evening meal, between five and eight of the clock in the afternoon.

22. Where any young person is employed in or about a shop contrary to the provisions of the last preceding section, the employer shall, upon summary conviction thereof be liable to a fine not exceeding fifty dollars and not less than twenty dollars for each person so employed, with costs of the prosecution, and, in default of immediate payment of such fine and costs, to be imprisoned for a period not exceeding one month. 1912, c. 40, s. 3.

23. The parent of any young person employed in a shop in contravention of section 21 of this Act shall, unless such employment be without the consent, connivance, or wilful default of such parent, be guilty of an offence in contravention of this Act, and shall for each offence, on summary conviction thereof, incur and pay a fine of not more than fifty dollars and not less than twenty dollars, and costs of prosecution, and, in default of immediate payment of such fine and costs, shall be imprisoned for a period not exceeding one month.

24. The employer of females in any shop shall at all times provide and keep therein a sufficient and suitable seat or chair for the use of every such female, and shall permit her to use such seat or chair when not necessarily engaged in the work or duty for which she is employed in such shop; and any person offending against any of the provisions of this section shall, upon summary conviction thereof, be liable to a fine not exceeding fifty dollars and not less than twenty dollars, with costs of prosecution, and in default of immediate payment of such fine and costs, to be imprisoned for a period not exceeding one month. 1912, c. 40, s. 4.

25. In every shop in which any young person is employed there shall be kept exhibited by the employer in a conspicuous place a notice referring to the provisions of this Act, and stating the number of hours in the week during which a young person may lawfully be employed therein; and such notice shall be according to the form in the schedule to this Act.

26. When the employer of a young person is charged with an offence against any of the provisions of sections 21, 24, or 25 of this Act, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the said employer proves to the satisfaction of the court that he has used due diligence to enforce the execution of the provisions of the said sections, and that the said other person has committed the offence in question without his knowledge, consent, or connivance, the employer shall be exempt from any fine, penalty, or punishment, but the said other person shall thereupon be summarily convicted of such offence, and shall be liable to the same fine, penalty, or punishment therefor as if he were the employer.

27. Nothing in the last six preceding sections shall apply to a shop where the only persons employed therein are at home—that is to say, are members of the same family dwelling there—or to members of the employer's family dwelling in a house to which the shop is attached.

28. Every shop shall have in connection therewith, or within convenient distance, and with convenient access thereto, a sufficient number and description of privies, earth or water closets, and urinals for the employees of such shops; such closets and urinals shall at all times be kept clean and well ventilated, and separate sets thereof shall be provided for the use of male and female employees, and shall have respectively separate approaches and entrances.

It shall be the duty of the employer to comply with the provisions of this section and carry out the requirements thereof, and failure of the employer in his duty in this respect shall render the offender liable for each offence, on summary conviction thereof, to a fine of not more than forty dollars and not less than ten dollars, and costs of prosecution. 1912, c. 40, s. 5.

29. When a young person is, in the opinion of the court, apparently of the age alleged by the informant, it shall lie on the defendant to prove that the young person is not of that age.

30. A person shall not be liable, in respect of a repetition of the same kind of offence from day to day, to any larger fine, penalty, or punishment than the highest fine, penalty, or punishment fixed by any of the last nine preceding sections for the offence, except—

(a) Where the repetition of the offence occurs after an information has been laid for the previous offence; or

(b) Where the offence is one of employing two or more young persons contrary to the provisions of this Act.

31. The following provisions shall have effect with respect to summary proceedings for offences and fines under the last ten preceding sections:—

(a) The information shall be laid within one month after the commission of the offence:

(b) The description of an offence in the words of this Act, or in similar words, shall be sufficient in law:

(c) Any exception, exemption, proviso, excuse, or qualification, whether it do or do not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information; and if so specified or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the informant:

(d) It shall be sufficient to allege that a shop is a shop within the meaning of section 20 of this Act, without more:

(e) It shall be sufficient to state the name of the ostensible employer or the title of the firm by which the employer employing persons in the shops is usually known:

(f) A conviction or order made in any matter arising under the ten last preceding sections, either originally or on appeal, shall not be quashed for want of form.

32. All prosecutions under the last eleven preceding sections may be brought and heard before any Justice of the Peace or a Police Magistrate.

#### Bake-shops.

33. All bake-shops to which this Act applies shall be constructed as to lighting, heating, ventilating and draining in such a manner as not to be detrimental or injurious to the health of any person working therein, and shall also be kept at all times in a clean and sanitary condition, so as to secure the production and preservation of all the food products therein in a good and wholesome condition.

34. Every bake-shop shall be provided with a proper wash-room, closet, and other conveniences necessary for the health and comfort of the persons employed therein; the wash-room, closets, and other conveniences to be separate from the bake-shop, and such wash-room, closets, and other conveniences shall be kept clean and in a sanitary condition.

35. The sleeping-place or places of the employees of every bake-shop shall be entirely separate from the bake-shop, and no person shall be allowed to sleep in such bake-shop.

36. Every bake-shop shall be provided with proper means and facilities of escape in case of fire, such means and facilities of escape to be to the satisfaction of the inspector.

37. No employer shall require, permit, or suffer any employee in any bake-shop to work on Sunday, nor more than twelve hours on any one day, or more than sixty hours in any one week, except by permission of the inspector, given in writing to the employer; and a copy of such permission shall be posted in a conspicuous place in the bake-shop.

38. No employer shall knowingly require, permit, or suffer any person to work in his bake-shop who is affected with consumption of the lungs, scrofula, or with any venereal disease, or with any communicable skin disease; and every employer is hereby required to maintain himself and his employees in a clean and healthy condition while engaged in the manufacture, handling, or sale of such food products.

39. No person under the age of eighteen years shall be employed in any bake-shop between the hours of nine of the clock at night and five of the clock in the morning.

40. No person under the age of fourteen years shall be employed in any bake-shop.

41. It shall not be lawful to let or suffer to be occupied as a bake-shop, or to occupy as a bake-shop, any room or place situate in a cellar or underground which was not so let or occupied before the first day of April, 1901.

42. There shall be posted up in convenient places in every bake-shop, and be constantly kept so posted up, the provision of this Act with respect to bake-shops, to



enable persons employed in bake-shops to become acquainted with their rights, liabilities, and duties under this Act.

42a. It shall be the duty of the employer to comply with the provisions of the last ten preceding sections and to carry out the requirements thereof. 1912, c. 40, s. 6.

#### Penalties.

43. Any employer who fails or refuses to carry out or comply with any of the requirements or provisions contained in the last ten preceding sections, or who refuses the inspector admittance to his bake-shop, or who neglects or refuses to comply with any lawful requirements of the inspector in connection with the enforcement of this Act respecting bake-shops, shall, for the first offence, on summary conviction thereof, forfeit and pay a penalty of not less than twenty dollars besides costs, and not more than fifty dollars, besides costs; and for the second offence, on summary conviction thereof, such person shall forfeit and pay a penalty of not less than fifty dollars, besides costs, and not more than one hundred dollars, besides costs, and in default of payment thereof he shall be imprisoned in the Provincial gaol of the district, or the common gaol of the county in which the offence is committed, for a period not less than thirty days, nor more than six months, and to be kept at hard labour, at the discretion of the convicting magistrate; and for the third and subsequent offence, on summary conviction thereof, such person shall be imprisoned in any such gaol for a period of not less than six months, nor more than one year, to be kept at hard labour, in the discretion of the convicting magistrate. 1912, c. 40, s. 7.

44. It shall be the duty of the Superintendent of Police to enforce the provisions of this Act in all portions of the province not situate in any municipality.

(Schedule omitted.)

#### Sunday Labour.

[Chapter 219, which is to apply only to the portion of the province comprised in the former separate colony of British Columbia, declares that the Sunday laws in force in England in 1858 are to be in force in the said portion of British Columbia. The schedule annexed to the Act contains the English laws referred to. The provisions respecting Sunday labour are as follows:—]

... no tradesman, artificer, workman, labourer, or other person whatsoever shall do or exercise any worldly labour, business or work of their ordinary callings upon the Lord's Day, or any part thereof (works of necessity and charity only excepted); and ... every person being of the age of fourteen years or upwards offending in the premises shall for every such offence forfeit the sum of five shillings.

#### Labour Organizations—Liability of Trade Unions—Picketing—Boycotting.

Chapter 228.—1. No trade union or any combination of workmen or employees in British Columbia, nor the trustees of any such union or combination in their representative capacity, shall be liable in damages for any wrongful act of commission or omission in connection with any strike, lock-out, or trade or labour dispute, unless the members of such union, or combination, or its council, committee, or other governing body, acting within the authority or jurisdiction given such council, committee, or other governing body by the rules, regulations, or directions of such union or combination, or the resolutions or directions of its members resident in the locality or a majority thereof, shall have authorised or shall have been a concurring party in such wrongful act.

2. No such trade union or association shall be enjoined, nor shall any officer, member, agent, or servant of such union or association or any other person be enjoined, nor shall it or its funds or any such officer, member, agent, servant, or other person be made liable in damages for communicating to any workman, artisan, labourer, employee, or person facts respecting employment or hiring by or with any employer, producer, or consumer or distributor of the products of labour or the purchase of such products, or for persuading or endeavouring to persuade by fair or reasonable argument, without unlawful threats, intimidation, or other unlawful acts, such last-named workman, artisan, labourer, employee, or person, at the expiration of any existing contract, not to renew the same with or to refuse to become the employee or customer of any such employer, producer, consumer, or distributor of the products of labour.

3. No such trade union or association, or its officer, member, agent, or servant, or other person, shall be enjoined or liable in damages, nor shall its funds be liable in damages for publishing information with regard to a strike or lock-out, or proposed or expected strike or lock-out, or other labour grievance or trouble, or for warning workmen, artisans, labourers, or employees or other persons against seeking or urging workmen, artisans, labourers, employees or other persons not to seek employment in the locality affected by such strike, lock-out, labour grievance or trouble, or from purchasing, buying, or consuming products produced or distributed by the employer of labour party to such strike, lock-out, labour grievance or trouble, during its continuance.

**Payment of Wages—Truck System.**

Chapter 231.—1. This Act may be cited as the Truck Act.

**Interpretation.**

2. In this Act the following expressions shall have the meanings respectively hereby assigned to them:—

“Workman” does not include a domestic or menial servant or farm labourer, but, save as aforesaid, means any person who, being a labourer, journeyman, artificer, handicraftsman, miner, or otherwise engaged in manual labour, whether under the age of twenty-one years or above that age, has entered into or works under a contract with an employer, whether the contract be express or implied, oral or in writing, and be a contract of service or a contract personally to execute any work or labour:

“Employer” means all masters, bailiffs, foremen, managers, clerks, and other persons engaged in the hiring, employment, or superintendence of the labour of such workmen, and shall include any corporation:

“Wages” means and shall include any money or other thing had or contracted to be paid, delivered, or given as a recompense, reward, or remuneration for any labour done or to be done, whether within a certain time or to a certain amount, or for a time or an amount uncertain:

“Contract” means and shall include any agreement, understanding, device, contrivance, collusion, or arrangement whatsoever on the subject of wages, whether written or oral, whether direct or indirect, to which the employer or workman are parties or are assenting, or by which they are mutually bound to each other, or whereby either of them shall have endeavoured to impose an obligation on the other of them.

**How Wages are to be Paid.**

3. In all contracts hereafter to be made for the hiring of any workman or for the performance by any workman of any labour, the wages of such workman shall be made payable in lawful money of Canada only, and not otherwise; and if in any such contract the whole or any part of such wages shall be payable in any manner other than in the lawful money aforesaid, such contract shall be and is hereby declared illegal, null and void.

4. If in any contract hereafter to be made between any workman and his employer any provision shall be made directly or indirectly respecting the place where, or the manner in which, or the person or persons with whom the whole or any part of the wages due or to become due to any such workman shall be laid out or expended, such contract shall be and is hereby declared illegal, null, and void.

5. The entire amount of the wages earned by or payable to any workman in respect of any labour by him done shall be actually paid to such workman in lawful money of Canada, and not otherwise; and every payment made to such workman by his employer of or in respect of any such wages, by the delivering to him of goods or otherwise than in the lawful money aforesaid, except as hereinafter mentioned, shall be and is hereby declared illegal, null and void.

**Workman's Remedies.**

6. Every workman shall be entitled to recover from his employer, in the manner by law provided for the recovery of servants' wages, or by any other lawful ways and means, the whole or so much of the wages earned by such workman as shall not have been actually paid to him by such his employer in lawful money of Canada.

7. In any action or other proceeding to be hereafter brought or commenced by any workman against his employer for the recovery of any sum of money due to such workman as the wages of his labour, the defendant shall not be allowed to make any set-off or counterclaim, nor to claim any reduction of the plaintiff's demand by reason or in respect of any goods had or received by the plaintiff as or on account of his wages or in reward for his labour, or by reason or in respect of any goods sold, delivered, or supplied to such workman at any shop or warehouse kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest, or by reason or in respect of any board or lodging supplied to such workman.

8. No employer of any workman shall have or be entitled to maintain any action or remedy whatsoever against any such workman for or in respect of any goods sold, delivered, or supplied to any such workman by such employer whilst in his employment as or on account of his wages or reward for his labour, or for or in respect of any goods sold, delivered, or supplied to such workman at any shop or warehouse kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest, or for or in respect of any board or lodging supplied to such workman.

9. In any action brought by a workman for the recovery of his wages, the employer shall not be entitled to any set-off or counterclaim in respect of any goods, board, or lodging supplied to the workman by any person under any order or direction of the

employer or any agent of the employer, and the employer of a workman or any agent of the employer, or any person supplying goods, board, or lodging to the workman under any order or direction of such employer or agent, shall not be entitled to sue the workman for or in respect of any goods, board, or lodging supplied by such employer or agent, or under such order or direction, as the case may be.

#### Application of Preceding Sections.

10. Sections 3 to 9 of this Act, both inclusive, shall only apply—

(a) To any workman employed altogether, or in part, or on works or undertakings situated wholly or in part in any incorporated city or town, or within three miles thereof; or

(b) To any goods, board, or lodging supplied or contracted to be supplied to any workman in any incorporated city or town, or within three miles thereof.

11. Nothing contained in the preceding sections of this Act shall in any part of the Province prevent any employer of any workman, or agent of any such employer, from contracting to supply to any such workman any medicine or medical attendance, or any fuel, or any provender for any working animal employed by such workman in his trade or occupation; or from demising to any workman the whole or any part of any tenement at any rent to be thereon reserved; or if the workman be employed in mining, fishing, or logging; from contracting to supply any materials, tools, or implements to be used by such workman in such mining, fishing, or logging; nor shall prevent any railway company from contracting to supply any workman employed by them upon the construction and repair of the permanent works and way with board and lodging at the company's boarding-cars; nor shall prevent any such employer or agent from making, or contracting to make, any deduction from the wages of any such workman for or in respect of any such rent, or for or in respect of any such fuel, provender, materials, tools, implements, or any such board or lodging.

#### Further Protection of Workmen.

12. No deduction shall be made from a workman's wages for sharpening or repairing tools, except by agreement, not forming part of the condition of hiring.

13. Nothing herein contained shall extend or be construed to extend to prevent any employer from advancing to any workman any money to be by him contributed to any friendly society duly established according to the laws of this Province, nor from advancing to any such workman any money for his relief in sickness.

14. Nothing herein contained shall be construed to prevent or to render invalid any contract for the payment, or any actual payment, to any workman of the whole or any part of his wages in the money of any of His Majesty's dominions, or in any bank-notes, if such money notes shall be circulating at face value in British Columbia, or by cheque payable on demand and given upon any chartered bank of Canada having an office in British Columbia, if such cheques are duly honoured, and if such workman shall be freely consenting to receive such money, notes, or cheques; but all payments so made with such consent as aforesaid in any such money or notes, or any such cheques, if duly honoured, shall, for the purposes of this Act, be as valid and effectual as if such payments had been made in lawful money of Canada.

15. (1) No deduction from the wages of any workman in respect of any goods, board, or lodging supplied or contracted to be supplied to such workman, or in respect of any rent of any tenement or part thereof demised, shall exceed the real and true value of the goods, board, and lodging actually supplied to and had by such workman, and of such tenement or part thereof demised.

(2) Whenever, by agreement, custom, or otherwise, a workman is entitled to receive, in anticipation of the regular period of the payment of his wages, an advance as part or on account thereof, it shall not be lawful for the employer to withhold such advance or make any deduction in respect of such advance on account of poundage, discount, or interest, or any similar charge.

16. No employer shall, directly or indirectly, by himself or his agent, impose as a condition, express or implied, in or for the employment of any workman any terms as to the place at which, or the manner in which, or the person with whom any workman is to board, lodge, subsist, or reside, or as to the place at which, or the manner in which or the person with whom any wages or portion of wages paid to the workman are or is to be expended; and no employer shall, by himself or his agent, dismiss any workman from his employment for or on account of the place at which, or the manner in which, or the person with whom such workman may board, lodge, subsist, or reside, or for or on account of the place at which, or in the manner in which, or the person with whom any wages or portion of wages paid by the employer to such workman are or is expended, or fail to be expended.

#### Penalties.

17. If any employer, or the agent of any employer, shall, by himself or by the agency of any other person or persons, directly or indirectly, enter into any contract

hereby declared illegal, or shall contravene or fail to comply with any of the foregoing provisions of this Act, every such employer, agent, and person shall for the first offence be liable to pay a fine not exceeding one hundred dollars, or to be imprisoned for not more than one month, with or without hard labour, and for the second and each subsequent offence to pay a fine of not less than twenty-five nor more than five hundred dollars, or to be imprisoned for not more than three months, with or without hard labour.

18. No person shall be punished as for a second offence under this Act unless ten days at least shall have intervened between the conviction of such person for the first and the committing by such person of the second offence; but each separate offence committed by any such person before the expiration of the said term of ten days shall be punishable by a separate penalty, as though the same were a first offence; and if the person or persons preferring such complaint or information shall not be able or shall not see fit to produce evidence of any such previous conviction, any such offender as aforesaid shall be punished for each separate offence by him committed against the provisions of this Act by an equal number of distinct and separate penalties, as though each of such offences were a first offence; and no person shall be proceeded against or punished as for a second offence at the distance of more than two years from the commission of the last preceding offence.

19. (1) Where an offence for which an employer is liable to a penalty by virtue of this Act has in fact been committed by some agent of the employer or other person, such agent or other person shall be liable to the same penalty as if he were the employer.

(2) Where an employer is charged with an offence against this Act, he shall be entitled, upon information laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that he had used due diligence to enforce the execution of this Act, and that the said other person had committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence, and the employer shall be exempt from any penalty.

20. (1) Any offence against this Act may be prosecuted, and any punishment therefor inflicted and penalty recovered under the provisions of the "Summary Convictions Act," before any two justices of the peace having jurisdiction in the municipality or place where the offence is committed.

(2) In respect of any offence against this Act and any proceedings for the same, every judge of the Supreme Court shall have, as to matters arising within the province, and every County Court Judge and Police or Stipendiary Magistrate shall have, as to matters arising within his jurisdiction, all the powers and duties conferred by the "Summary Convictions Act," or this Act, upon two justices of the peace.

21. No person shall be liable to be convicted of any offence against this Act committed by his or her copartner in trade, and without his or her knowledge, privity, or consent; but it shall be lawful when any penalty, or any sum or wages, or any other sum is ordered to be paid under the authority of this Act, and the person or persons ordered to pay the same shall neglect or refuse to do so, to levy the same by distress and sale of any goods belonging to any copartnership concern or business, in the carrying-on of which such charges may have become due or such offence may have been committed; and in all proceedings under this Act to recover any sum due for wages it shall be lawful in all cases of copartnership for the Justices or the Court, at the hearing of any complaint for the non-payment thereof, to make and order upon any one or more copartners for the payment of the sum appearing to be due; and in such case the service of a copy of any summons or other process, or of any order, upon one or more of such copartners shall be deemed to be a sufficient service upon all.

22. In all cases it shall be deemed and taken to be sufficient service of any summons to be issued against any offender or offenders under the authority of this Act if a duplicate or true copy of the same be left at or upon the place used or occupied by such offender or offenders, for carrying on his, her, or their trade or business, or at the place of residence of any such offender or offenders, being at or upon any such place as aforesaid, the same being directed to such offender or offenders by his or her or their right or assumed name or names.

23. No conviction, order, or adjudication made by any Court or any Justices of the Peace under the provisions of this Act shall be quashed for want of form, nor be removed by certiorari or otherwise into the Supreme Court; and no warrant of commitment or of distress, or of commitments in default of sufficient distress, shall be held void by reason of any defect therein, provided that it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

24. A person engaged in the same trade or occupation as employer charged with an offence against this Act, or the father, brother, or son of such person, shall not act as Justice of the Peace in hearing and determining such charge.

### Woodmen's Liens.

Chapter 243.—1. This Act may be cited as the Woodman's Lien for Wages Act.

#### Interpretation.

2. Where the words following occur in this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

"Logs or timber" means and shall include logs, timber, piles, posts, telegraph and telephone poles, ties, mining-props, tan-bark, shingle-bolts, or staves, or any of them, or lumber of any description manufactured from the same or any of them:

"Labour", "service", or "services" means and shall include cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting, or booming any logs or timber, and any work done by cooks, blacksmiths, artisans, and others usually employed in connection therewith, and shall also include any work done by engineers and all other persons or workmen employed in any capacity in or about any mill or factory where lumber of any description is manufactured:

"Person" in section 3 of this Act shall include cooks, blacksmiths, artisans, and all others usually employed in connection with such labour and services.

#### Timber Liens for Wages.

3. Any person performing any labour, service, or services in connection with any logs or timber in the Province, or his assignee, shall have a lien thereon for the amount due for such labour, service, or services, and the same shall be deemed a first lien or charge on such logs or timber, and shall have precedence of all other claims or liens thereon, except any lien or claim which the Crown may have upon such logs or timber for or in respect of any dues or charges, or which any timber-slide company, or owner of slides and booms, may have thereon, for or in respect of tolls.

4. The lien provided for in the last preceding section shall not attach or remain a charge on the logs or timber unless and until a statement thereof in writing, verified upon oath by the person claiming such lien, or some one duly authorised on his behalf, shall be filed in the office of the Registrar of the County Court having jurisdiction in the county, district, or portion of district in which the labour or service or some part thereof has been performed: Provided that when such labour or service has been performed upon any logs or timber in any portion of the Province beyond the jurisdiction of the County Court, then such statement shall be filed in the office of the Government Agent nearest the place where such labour or services were performed.

5. Such statement shall set out briefly the nature of the debt, demand, or claim, the amount due to the claimant, as near as may be, over and above all legal set-offs or counterclaims, and a description of the logs or timber upon or against which the lien is claimed, and may be in the form in Schedule A to this Act, or to the like effect.

6. Such statement shall be filed within thirty days after the last day such labour or services were performed: Provided that no sale or transfer of the logs or timber upon which a lien is claimed under this Act during the time limited for the filing of such statement of claim, and previous to the filing thereof, or after the filing thereof and during the time limited for the enforcement thereof, shall in anywise affect such lien, but such lien shall remain and be in force against such logs or timber in whosoever possession the same shall be found, except sawn timber sold in the ordinary course of business.

7. (1) Any person or persons having a lien upon or against any logs or timber may enforce the same by suit in the County Court where such lien is filed, provided the sum claimed is within the jurisdiction of such Court, otherwise in the Supreme Court; and such lien claim shall cease to be a lien upon the property named in such statement unless the proceedings to enforce the same be commenced within thirty days after the filing of the statement, or after the expiry of the period of credit. In all such suits the person, company, or corporation liable for the payment of such debt or claim shall be made the party defendant.

(2) There shall be attached to or indorsed upon the writ or summons in such suit a copy of the lien claim filed as hereinbefore provided; and no other statement of claim or particulars shall be necessary unless ordered by the court or judge. In case no defence or dispute note is filed, judgment may be signed and execution issued according to the practice of the said court.

3. The court or judge may order any particulars to be given, or any proper or necessary amendments to be made, or may add or strike out the names of parties at any time, and may set aside any judgment and permit a defence or dispute note to be entered or filed, on such terms as to the court or judge shall appear proper. The writ or summons shall be in the form, as nearly as may be, of that in use in the court in which it is issued, and the practice thereafter shall follow, as nearly as may be, that of the said court. Writs or summonses may be served anywhere in the province in the same manner as in other cases, and the judgment shall declare that the same is for wages, the amount thereof and costs, and that the plaintiff has a lien therefor on the property described when such is the case.

9. Where an execution has issued and has been placed in the Sheriff's hands for execution, and no attachment has been issued, the proceedings for the enforcement of the lien shall be by sale under the execution; and the proceedings relating to proof of other claims, and the payment of money into court, and the distribution of the moneys, and otherwise, shall, as far as practicable, be the same as is hereinafter provided for proceedings upon and subsequent to an attachment.

10. (1) In any proceeding, whether commenced by writ or summons or attachment, and whether in a Supreme or County Court, the judge may direct that the same shall be disposed of summarily by him in Chambers without waiting for the regular sittings of the court, upon such terms as to notice and otherwise as the order shall provide, and the same may be so heard and disposed of.

(2) The judge may also entertain in Chambers any application to set aside an attachment or seizure, or to release logs or timber that have been seized, and may summarily dispose of the same.

11. Where an attachment issues in the first instance, either from the Supreme Court or County Court, the statement of claim and defence or dispute note, and proceedings to judgment, may be the same, as hereinbefore provided; where a suit has been begun by writ or summons, and where an attachment issues after proceedings have been begun by writ or summons, the proceedings shall continue and be carried to judgment under the writ or summons, except such as are necessary to be taken under the attachment.

12. The forms of attachment shall be, as nearly as may be, the same as are in use in the Supreme Court or County Court. The judges of the Supreme Court and the judges of the County Court, or a majority of each of such judges, may jointly prepare and adopt forms for the more convenient carrying out in their respective courts the provisions of this Act.

13. (1) Upon the production and filing of the statement mentioned in section 4 of this Act or a copy thereof, and an affidavit made and sworn by the claimant of the amount of the claim due and owing, and showing that the same has been filed as aforesaid, and stating that—

(a) He has good reason to believe, and does believe, that the logs or timbers are about to be removed out of the province; or

(b) The person indebted for the amount of such lien has absconded from the province with intent to defraud or defeat his creditors; or

(c) The saw-logs or timber are about to be cut into lumber or other timber so that the same cannot be identified; and

(d) He is in danger of losing his claim if an attachment do not issue, and if affidavits corroborating the affidavit of the plaintiff in respect of paragraphs (a), (b), or (c) be also filed,—

the Registrar of the Court having jurisdiction in the matter shall issue a writ of attachment directed to the Sheriff of the county, commanding him to attach, seize, and take and safely keep the said logs or timber, or such portion of them as may be necessary to satisfy the amount claimed and the costs of the suit, and of the proceedings to enforce the lien.

(2) Where additional claims are made, or the amount of claim is increased, or a sufficient seizure has not been made, a second or subsequent seizure may be made either under execution or attachment.

14. The plaintiff may, at any time within six months from the date of the original writ of attachment, issue from the office whence the original writ issued one or more concurrent writ or writs of attachment, to bear test on the same day as the original writ, and to be marked by the officer issuing the same with the word "concurrent" in the margin, which concurrent writ or writs of attachment may be directed to any sheriff other than the sheriff to whom the original writ was issued, and need not be sued out in duplicate or be served on the defendant, but shall operate merely for the attachment of the said logs or timber in aid of the original writ.

15. (1) The said writ of attachment shall also, where no writ or summons has issued summon the defendant to appear before the court out of which the attachment has issued, and a copy of the writ of attachment shall be served upon the defendant, and if the defendant in such attachment is not the owner of the logs or timber described in the writ, then a copy of the writ shall also be served upon the owner of the said logs or timber, or upon the person or agent in whose possession, custody, or control they may be found, for him.

(2) Where the defendant or owner of the logs or timber cannot be found within the jurisdiction of the court, and there is no one in possession of the logs or timber, then a copy of the writ of attachment shall be forwarded to the sheriff of any county, or any constable or other competent person in the province within whose shrievalty or jurisdiction the defendant and owner, or either of them, as the case may be, resides or may be found; and such copy of the writ of attachment may be served by such sheriff, constable, or person upon such defendant or owner of the logs or timber. The owner may, on his own application or by direction of a judge, be made a party defendant at trial.



(3) In case the defendant or owner cannot be found within the province, or the owner cannot be ascertained, and no agent or person is in possession for the owner, the writ may be served in such manner as the judge shall by order direct; but when the writ is served upon an agent or other person in possession as aforesaid, the order of the judge allowing the said service shall be necessary.

(4) Where the service has not been personal upon either the defendant or owner, and where a proper defence has not been made, the judge may, in his discretion, admit them, or either of them, to make full defence, and may make such order in the premises as may be reasonable and just to all parties.

(5) The sheriff, constable, or person shall, before making any service, be entitled to demand the payment of a sum sufficient to cover the amount of his necessary disbursements in effecting the same.

16. No sheriff or bailiff shall seize or detain any logs or timber under the provisions of this Act when in transit from the place where cut to the place of destination when such place of destination is within any of the said districts in which proceedings have been commenced, but in case such logs or timber are so in transit, or are in the possession of any booming company, or other person or corporation, for the purpose of being driven or sorted and delivered to the owners, or to satisfy any statutory lien, then attachment of the said logs or timber may be made by serving a copy of the said attachment upon the person or corporation driving or holding the same, who shall from the time of such service be deemed to hold the same, both on their own behalf and for the said sheriff to the extent of the lien, until the logs or timber can be driven and sorted out; and when driven or sorted out the sheriff may receive the said logs or timber from such person or corporation, and the statutory lien of such person or corporation shall not be released by the holding of such sheriff or other officer.

17. In case of an attachment, if the owner of the said logs or timber, or any person in his behalf, shall execute and file with the Registrar of the court out of which the attachment has issued a good and sufficient bond to the person claiming the lien, executed by two sureties and approved by the said Registrar, and conditioned for the payment of all claims, damages, costs, charges, disbursements, and expenses that may be recovered by the claimant in such proceedings, together with the amount for which a lien is claimed in any other suit (if any), the Registrar shall issue an order to the sheriff having in charge the logs or timber directing their release, and upon service of such order upon the sheriff he shall release the same.

18. Any person who shall have been served with a copy of the writ of attachment under the preceding sections of this Act, and who may desire to dispute the same, shall, within fourteen days after such service, enter in the court in which proceedings are pending a notice that he or they dispute the claim upon the lien in whole or in part.

19. If no notice of dispute be entered under the last preceding section, judgment may be entered as in the case of default, and the practice or procedure may be the same as in a suit begun by writ or summons.

20. The defendant may at any time after service of the writ of attachment, and before the sale of the logs or timber, pay into court the amount for which a lien is claimed in the suit, together with the amount for which a lien is claimed in any other suit (if any), and together with the costs of the proceedings thereon to the date of such payment, taxed by the Registrar of the court if so required; and the person making such payment shall thereupon be entitled to a certificate vacating the said lien, and upon the said certificate being filed with the Registrar of the court in which the original statement was filed, the said lien shall be vacated and all further proceedings thereon shall cease, and the person making such payment shall further be entitled to an order directing the delivery-up of the logs or timber seized under the attachment, or the cancellation of any bond given under section 17 of this Act.

21. (1) After the expiration of the time hereinbefore named within which notice of dispute may be entered, the Judge shall, upon the application of the claimant, issue an appointment naming a day upon which all persons claiming a lien on the logs or timber shall appear in person, or by their solicitor or agent, before the judge for the adjustment of their claims and the settlement of accounts; and the said appointment shall be served upon the defendants and upon the owner, if the Judge so directs, and shall also, if the Judge so directs, be published once a week for two weeks before the day named in the said appointment in a newspaper published in the judicial district in which proceedings are pending, if a newspaper be published therein, and if not, then in a newspaper circulating in that district.

(2) Provided that a copy of such appointment shall be mailed by registered letter to every holder of a claim known to the plaintiff as such holder at least two weeks before the day named in the appointment, directed to the post office address of such claimant where the same is known, and if not known, then to his last-known address.

22. (1) Upon the day named in the said appointment and advertisement the persons served with a copy thereof, and all other persons claiming a lien on the said logs or timber who have prior to the said date filed with the Registrar of the proper Court a notice claiming such lien on the said logs or timber and stating the nature and amount



of such claim, shall attend before the Judge named in the appointment and advertisement.

(2) Where claims are brought in pursuant to notice they may be established *prima facie* by affidavit, but any party interested shall be at liberty to cross-examine the deponents, and may require that the claim be established in open Court as in other cases.

23. The Judge shall hear all parties and take all accounts necessary to determine the amounts (if any) due to them or any of them, or of any other holders of liens who may be called upon by the Judge to prove their lien, and shall tax to them their costs and determine by whom the same shall be payable, and settle their priorities, and generally determine all such matters as may be necessary for the adjustment of the rights of the several parties.

24. At the conclusion of the inquiry the Judge shall make his report and order, which shall state his findings and direct the payment into the Court in which proceedings are pending of the amounts (if any) so found due, and the costs, within ten days thereafter, and in default of such payment, that the logs or timber shall be sold by the sheriff for the satisfaction of the amounts found due to the several parties upon the inquiry and costs.

25. (1) In default of payment into Court under the last preceding section within the time named in the order therefor, the said logs or timber shall, within twenty days thereafter, be sold by the Sheriff holding the same, in the same manner and subject to the same provisions of law as goods seized or taken in execution, unless the Judge shall direct that additional publicity be given to the sale; and the amount realized by such sale shall, after deducting the expenses thereof payable to the Sheriff, be paid into the Court in which the proceedings are pending, and shall, upon the application of the several parties found to be entitled thereto under the order of the Judge, be paid out to them by the Registrar of the said Court.

(2) Provided, where the amount realized upon the sale shall not be sufficient to pay the claims in full and costs, the Judge shall apportion the amounts realized pro rata among the different claimants.

26. If after such sale and the distribution of the proceeds thereof under the last preceding section any balance shall remain due to any person under the said order of the Judge, the Registrar of the Court shall, upon application of such person, give to him a certificate that such amount remains due, which certificate may be entered as a judgment in any Court having jurisdiction against the person or persons by whom the claim was directed to be paid, and execution may be issued thereupon as in the case of other judgments in the said Court.

27. Where nothing shall be found due upon the several claims filed as mentioned in section 22 of this Act, or upon the lien or liens with respect to which proceedings have been taken, the Judge may direct by his said order, that the lien or liens be discharged and the logs or timber released, or the security given therefor be delivered up and cancelled, and shall also by such order direct payment forthwith of any costs which may be found due to the defendant or the owner of the said logs or timber.

28. The costs to be taxed to any party shall, as far as possible, be according to the tariff of costs in force as to other proceedings in the Court in which proceedings under this Act have been taken.

29. Where more money shall be paid into court as the proceeds of the sale of logs or timber than shall be required to satisfy the liens which shall be proved, and interest and costs, the Judge may order the payment out of Court of any remaining moneys to the party entitled to the same.

30. (1) Any person affected by proceedings taken under this Act may apply to the Judge to dismiss the same for want of due prosecution, and the Judge may make such order upon the application as to costs or otherwise as may be just.

(2) The Judge may at any stage of such proceedings, on the application of any party, or as he may see fit, order that any person who may be deemed a necessary party to any such proceedings be added as a party thereto or be served with any process or notice provided for by this Act, and the Judge may make such order as to the costs of adding such person or as to such service as may be just.

31. Nothing in this Act contained shall be deemed to disentitle any person to any other remedy than that afforded by this Act for the recovery of any amount due in respect of labour or services performed upon or in connection with any logs or timber, and where a suit is brought to enforce a lien but no lien shall be found due, judgment may be directed for the amount found due as in an ordinary case.

32. Any number of lien-holders may join in taking proceedings under this Act, or may assign their claims to any one or more persons, but the statement to be filed under section 4 of this Act shall include particular statements of the several claims of persons so joining, and shall be verified by the affidavits of such persons so joining, or separate statements may be filed and verified as by this Act provided, and one attachment issued on behalf of all the persons so joining.

33. If more than one suit be commenced under the provisions of this Act in respect of the same logs, the said defendants, or any of them, shall apply to have the causes consolidated, and, failing to do so, he or they shall pay the costs of such additional suit or suits.

34. Where suits are brought in the Supreme Court and the County Court, the procedure under sections 21, 22, 23, and 24 of this Act shall be had in the said County Court.

35. The procedure regulating the practice in actions brought in the Supreme Court or in the County Court shall, so far as they are not inconsistent with this Act, regulate proceedings taken under this Act.

36. Affidavits and affirmations under this Act may be sworn before any police magistrate, stipendiary magistrate, notary public, or justice of the peace, or before any commissioner authorized to take affidavits which may be used in the Supreme Court.

37. Every person making or entering into any contract, engagement, or agreement with any other person for the purpose of furnishing, supplying, or obtaining logs or timber by which it is requisite and necessary to engage and employ workmen and labourers in the obtaining, supplying, and furnishing such logs or timber as aforesaid, shall, before making any payment for, or on behalf of, or under such contract, engagement, or agreement, of any sum of money, or by kind, require such person to whom payment is to be made to produce and furnish a pay-roll or sheet of the wages and amount due and owing and of the payment thereof, which pay-roll or sheet may be in the form of Schedule B to this Act, or, if not paid, the amount of wages or pay due and owing to all the workmen or labourers employed or engaged on or under such contract, engagement or agreement at the time when the said logs or timber are delivered or taken in charge for, or by, or on behalf of, the person so making such payment and receiving the timber or logs.

38. Any person making any payment under such contract, engagement, or agreement without requiring the production of a receipted pay-roll or sheet as mentioned in the last preceding section shall be liable, at the suit of any workman or labourer so engaged under the said contract, engagement, or agreement, for the amount of pay so due and owing to the said workman or labourer under the said contract, engagement, or agreement.

39. The person to whom such pay-roll or sheet is given shall retain, for the use of the labourers or workmen whose names are set out in such pay-roll or sheet, the sums set opposite their respective names which have not been paid, and the receipt or receipts of such labourers or workmen shall be a sufficient discharge therefor.

(Schedule omitted.)

### **Workmen's Compensation.**

[Chapter 244, The Workmen's Compensation Act, is replaced by a new Act with the same title, chapter 77, 1916.]

#### **Payment of Wages Due Deceased Employees.**

Chapter 245.—1. This Act may be cited as the Deceased Workmen's Wages Act.

#### **Interpretation.**

2. In this Act

"Workman" means every person included under the same term in the Workmen's Compensation Act.

#### **Exemption from Debts.**

3. The wages earned by a workman during the period of three months before, and owing or accrued to him at, the time of his death shall, subject to the provisions hereinafter contained, be payable to the widow (if any) of such deceased workman, free from debts of such deceased.

4. The wages of such deceased workman, and which are hereby made payable to the widow, shall not be subject to the provisions of the laws relating to the administration of the estates of deceased persons dying intestate, nor, in case of the testacy of the deceased to obtaining probate or to the provisions of his will.

5. Such widow shall be entitled to such wages on production of a certificate of a justice of the peace, setting forth that he has satisfied himself that the person claiming to be the widow of the deceased is in fact such widow.

#### **Employment of Labour—False Representations.**

Chapter 246.—1. This Act may be cited as The Deceived Workmen Act.

2. It shall be unlawful for any person doing business in the province, by himself or by his agent or attorney, to induce, influence, persuade, or engage a workman to change from one place to another in the province, or to bring a workman of any call-

ing or class into the province, to work in any of the departments of labour in the province, through or by means of deceptive representations, false advertising, or false pretences concerning the kind and character of the work to be done, or the amount and character of the compensation to be paid for such work, or the sanitary and other conditions of the employment, or as to the existence or non-existence of a strike or other trouble pending between employer and employees, at the time or immediately prior to such engagement.

3. Any workman of the province, or from a locality without the province, who has or shall be influenced, induced, or persuaded to engage with any person or party mentioned in the last preceding section through or by means of any of the things therein prohibited shall have a right of action for recovery of all damages that such workman has sustained in consequence of the false or deceptive representations, false advertising, and false pretences used to induce him to change his place of employment, against any person directly or indirectly causing such damages.

4. It shall be unlawful for any person doing business in the province, by himself or by his agent or attorney, to induce, influence, or persuade a workman not to change from one place to another in the province, or to induce, or persuade a workman of any calling or class to keep away from the province, through or by means of deceptive representations, false advertising, or false pretences—

(a) Concerning the kind and character of the work to be done, or amount and character of the compensation to be paid for such work, or the sanitary or other conditions of the employment; or

(b) As to the existence or non-existence of a strike or other trouble then pending between employer and employees.

5. Any employer within the province who has sustained any damages by reason of any of the things prohibited in the last preceding section shall have a right of action for the recovery of such damages sustained in consequence of the false or deceptive representations, false advertising, and false pretences used to induce such workman not to change or to change his place of employment, against any person directly or indirectly causing such damages.

## STATUTES OF 1912.

### Employment Offices.

Chapter 10 with amendment.—1. This Act may be cited as the Employment Agencies Act.

2. In this Act the following expressions have the meanings hereinafter respectively assigned to them, that is to say:—

“Employment agency” means and includes the business of keeping an intelligence office, employment bureau, or other agency or office for procuring work or employment for persons seeking work where a fee or privilege is exacted, charged, or received, directly or indirectly, for procuring or assisting to procure employment, work, or a situation of any kind, and includes any house or office at which such business is carried on.

“Fee” means money or a promise to pay money.

“Superintendent” means the Superintendent of the Provincial Police of British Columbia.

“Employee” means any person engaged or seeking engagement for hire in any manual capacity, whether domestic, agricultural, pastoral, mechanical, or otherwise howsoever.

3. It shall not be lawful for any person in the province of British Columbia, directly or indirectly, to keep or conduct an employment agency, or to in any way hold himself out to be a license-holder or to be a keeper or conductor of an employment agency, or to charge or recover fees for or in connection with the hiring of employees, unless he is the holder of a license in the Form C of the Schedule hereto. No company incorporated or unincorporated shall be granted a license under the provisions of this Act.

4. The superintendent may issue such license to any person who—

(a) Makes written application therefor in the Form A in the Schedule hereto; such application shall designate the place of business in which the person applying for the license intends to carry on an employment agency.

(b) Forwards with such application a license fee of two dollars and fifty cents and a certificate of character signed by a justice of the peace in Form B in the Schedule hereto: Provided always where any applicant applies to obtain a license to conduct an employment agency for females, he must produce a certificate of character signed by two justices of the peace or the mayor of the city in which he resides:

(c) Any applicant may appeal to the Attorney-General from the decision of the superintendent refusing such license.

5. Such license, unless sooner cancelled, shall continue in force for one year, but may be renewed from year to year on payment of an annual fee of one dollar.

6. The superintendent shall keep a register of all license-holders in the province, and of all endorsements and cancellations of licenses.

7. A copy of any entry in such register purporting to be signed by the superintendent shall be *prima facie* evidence of the truth of the matters stated in such copy.

8. Every license-holder shall keep the following records of his business:—

(a) A book containing the names of every person who pays or is charged a fee for or in connection with the hiring of employees, together with the date and the amount of the fee.

(b) A book in the Form D in the Schedule hereto, and containing the particulars therein specified.

(c) The originals of all letters received, for a period of one year from receipt thereof, by the license-holder relating to the hiring of employees.

9. Such books and records shall be accurately kept from day to day, and shall at all reasonable times be open to inspection by the superintendent.

10. Any employer or employee may at all times inspect and take copies of any entry relating to himself in such books.

11. Every license-holder shall at all times keep posted up in a conspicuous place in or on his office, so as to be easily read by the public, the words "Licensed Employment Agency."

12. It shall not be lawful for a license-holder to transfer his license to any other person, or to directly or indirectly permit any person to carry on business under colour of such license.

13. The Lieutenant-Governor, by Order in Council gazetted, may from time to time prescribe a scale of fees chargeable by and payable to license-holders in respect of the hiring of employees.<sup>1</sup>

14. Every license-holder shall at all times keep posted in a conspicuous place in his office, so as to be easily read by all persons, a printed copy of the scale of fees for the time being in force under this Act.

15. (1) It shall not be lawful for any license-holder to directly or indirectly demand or receive from any person for or in respect of the hiring of any employee any greater or other fees than those specified in such scale, and any sum so in any way received by any license-holder in breach of this section may be recovered back, with full costs of suit, by the person who paid it.

(2) No license-holder shall, directly or indirectly, take or accept of any goods or chattels in payment or as security for the payment of such fees, nor shall such license-holder receive or accept any reward or other consideration in addition to the said fees.

(3) No license-holder shall, directly or indirectly, give or pay to any employer or to the foreman or agent of any employer for or in respect of the hiring of an employee any share or part of the fees specified in such scale; nor shall any such employer, foreman, or agent, directly or indirectly, take or receive from a license-holder any share or part of such fees. 1915, c. 23, s. 2.

16. (1) It shall not be lawful for any license-holder to directly or indirectly keep employees as lodgers, or have any share or interest in the keeping of a lodging-house for employees.

(2) For the purpose of this section, a license-holder shall be deemed to have such interest as aforesaid if any lodger or lodging-house is kept by any member of the license-holder's household.

17. Every contract or agreement made between any license-holder and any other person relating to the keeping of employees as lodgers, or of a lodging-house for such purpose, shall be illegal and void for all purposes.

18. If any person being a license-holder fails or neglects to comply with any of the provisions of this Act, or, being a license-holder or not, commits a breach of any of the provisions of this Act, he shall be liable on summary conviction to a penalty not exceeding one hundred dollars nor less than ten dollars, and, in default of payment, to a term of imprisonment not exceeding three months.

19. In all proceedings under section 3 the onus shall be on the accused to prove by the production of his license that he is a license-holder.

20. In all proceedings under this Act against a license-holder he shall produce to the court his license.

21. Every conviction against a license-holder shall be endorsed on his license by the convicting justice, and upon a third endorsement within three years from the first endorsement within such period being made, the license shall be deemed *ipso facto* cancelled, and the justice shall deliver it up to the superintendent.

22. No person whose license has been cancelled shall be entitled to hold a license nor shall he obtain employment or act in any capacity under any license-holder in carrying on the business of such employment agency in any district in the province of British Columbia until the expiration of one year from the date of such cancellation.

<sup>1</sup> The following scale of fees has been prescribed by Order in Council:—Ordinary labourers, \$1; skilled labourers, \$1.50; female help, \$1.

23. No license-holder shall be entitled to maintain an action for recovery of fees unless at the trial he produces his license.

24. On satisfactory proof of the loss or destruction of such license, and on payment of a fee of twenty-five cents, the superintendent may at the request of the licensee issue a duplicate, bearing all endorsements, and such duplicate shall avail for all purposes as if it were the original.

25. All fines and penalties received and recovered for an offence under this Act shall be paid into the public revenue and form part of the consolidated revenue fund.

26. The superintendent may at any time, on good cause shown, cancel any license granted under this Act.

27. If any license-holder shall be convicted of any indictable offence, his license shall, *ipso facto*, be deemed to have been cancelled.

28. The Lieutenant-Governor in Council may from time to time prescribe rules and regulations and orders for the conducting of employment agencies, including a form of contract or agreement to be made between any license-holder and employee hereunder.

(Schedules omitted.)

## STATUTES OF 1914.

### Liability of Employers for Road Tax of Employees.

Chapter 52.—285. Every merchant, farmer, trader, or employer of labour shall pay the annual commutation of statute labour or road tax, as the same becomes due by any person in their or his employment, and may deduct the amount so paid on account of such person from the amount of salary, wages, or compensation due to or to become due to him from such employer, upon production and delivery of the receipt therefor to such person. Every such merchant, farmer, trader, or employer of labour shall furnish to the collector, when requested by him to do so, a list of all persons in his employ liable to pay road-tax or to perform statute labour.

286. In case any person fails to pay the said commutation of statute labour or road-tax aforesaid for his employees, or to deliver to the collector the list mentioned in the last preceding section when required so to do, or knowingly states anything false therein, such person shall, on complaint of the collector, and upon summary conviction, be liable to a penalty not exceeding one hundred dollars.

### Fair Wages on Municipal Works.

Chapter 52.—494. All municipal contracts shall contain provisions whereby the workmen, mechanics, artisans, and labourers employed on municipal works shall be entitled to such wages and remuneration as are generally accepted as current in each trade for competent workmen in the municipality, and whereby all contractors and sub-contractors shall be bound to pay such wages.

### Licensing of Moving Picture Operators.

Chapter 75.—4. Notwithstanding any law to the contrary, the Lieutenant-Governor in Council shall have the power . . . to make regulations governing the use and operation of kinematographs, and prescribing the conditions under which the same shall be operated, and . . . for examining, regulating, and licensing operators, apprentice operators, and any other person whose business includes the . . . use or exhibition of kinematographs, films or slides.

9. No person shall act as an operator or apprentice operator unless he is of the full age of eighteen years and has first obtained a license therefor under this Act.

10. (1) Notwithstanding any law to the contrary, no incorporated city or municipality shall issue a license in respect of any moving-picture theatre or film exchange, or to any operator or apprentice operator, unless the applicant for such license shall have first obtained a license therefor under this Act.

(2) Every member of the council or other official of an incorporated city or municipality who issues or causes to be issued any license in violation of the provisions of this section shall be guilty of an offence against this Act.

15. Every offence against the provisions of this Act or the regulations passed thereunder, committed by the manager, employee, servant, or agent of any person holding any license in respect of a moving-picture theatre, kinematograph or film exchange under this Act, shall be deemed to be the offence of the person holding such license, and such person shall be answerable for and be liable to the penalty for such offence: Provided that nothing in this section shall absolve the actual offender from guilt or penalty in respect of the offence.

## STATUTES OF 1915.

## Industrial Accidents—Provisions for First Aid.

Chapter 4.—1. This Act may be cited as The Ambulance Act, 1915.

2. Every employer of labour directly or indirectly operating any mine, camp, construction work, or industry employing more than thirty persons, and being situated more than six miles from the office of a medical practitioner, shall at all times maintain in or about such industry or works at least one person possessing a certificate of competency to render first aid to the injured, and shall also provide a good and sufficient ambulance box or boxes.

3. The Secretary of the Provincial Board of Health shall determine the qualifications necessary to obtain a certificate of competency to render first aid to the injured, and any duly qualified medical practitioner may issue certificates in accordance therewith.

4. Any employer of labour directly or indirectly operating any industry or works subject to the provisions of section 2 of this Act shall forward to the Provincial Secretary the name of the person qualified to render first aid, and the number of his certificate of competency, and any employer directly or indirectly operating for more than six days without such competent person shall, upon summary conviction, be liable to a penalty not exceeding fifty dollars, and, in default of payment of such, to imprisonment for a period of not more than three months.

5. Any incompetent person presuming to possess a certificate in accordance with the provisions of this Act shall, upon summary conviction, be liable to a penalty not exceeding fifty dollars, and, in default of payment of such, to imprisonment for a period of not more than three months.

6. This Act shall not apply to coal mines operating under The Coal Mines Regulation Act.

7. This Act shall come into effect on the first day of January, 1916.

## YUKON TERRITORY.

## CONSOLIDATED ORDINANCES OF 1914.

**Inspection of Steam Boilers—Examination and Licensing of Stationary Engineers.**

Chapter 9.—1. This Ordinance may be cited as The Steam Boiler Ordinance

## Interpretation.

2. In this Ordinance unless the context otherwise requires—

(1) The expression "boiler" does not include boilers used for heating water for domestic purposes or low pressure steam heating boilers unless the pressure exceeds fifteen pounds per square inch or railway locomotive or steam-boat boilers, but means and includes all other steam boilers and every part thereof or thing connected therewith and all apparatus and things attached to or used in connection with any such boiler;

(2) The expression "owner" means and includes any person, firm or corporation, the owner or lessee of a boiler and the manager or other head officer in charge of the business of any such firm or corporation;

(3) The expression "engineer" means any person having charge of or operating a steam boiler under the provisions of this Ordinance;

(4) The expression "inspector" means any inspector of steam boilers appointed by the Commissioner of the Yukon Territory under the provisions of this Ordinance.

## Inspection of Steam Boilers.

3. The Commissioner of the Yukon Territory may appoint an inspector or inspectors of steam boilers for the Territory for the purpose of carrying out the provisions of this Ordinance and may fix the remuneration to be paid such inspector or inspectors.

4. No person holding the office of inspector under the provisions of this Ordinance shall be either directly or indirectly interested in the sale of boilers or steam machinery.

5. Every inspector appointed under the provisions of this Ordinance shall before entering upon the performance of his duties take and subscribe an oath that he will faithfully and impartially perform the duties of his office.

6. The inspectors appointed under this Ordinance shall—

(a) Inspect all new steam boilers within their respective districts before the same are used;

(b) Once at least in each year subject all boilers within their district to hydrostatic pressure test;

(c) Satisfy themselves by a thorough examination inside and out and by a hammer test after the hydrostatic pressure that the boilers are well made and of good and suitable material;

(d) See that the openings for the passage of water and steam respectively and all pipes and tubes exposed to heat are of proper dimensions and free from obstruction;

(e) See that the flues are circular in form;

(f) Satisfy themselves that the friction (fire line) of the furnace is at least two inches below the prescribed minimum water line of the boiler;

(g) See that the arrangements for delivering the feed water are such that the boilers cannot be injured thereby;

(h) Satisfy themselves that such boilers and their steam connections may be safely employed without peril to life;

(i) See that the safety valves are of suitable dimensions sufficient in number and properly arranged;

(j) See that the safety valve, weights or springs are properly adjusted so as to allow no greater pressure in the boilers than the amount prescribed by the inspection certificate;

(k) See that the boiler is provided with a sufficient number of gauge cocks and a properly inserted fusible plug so placed as to fuse by the heat of the furnace whenever the water in the boiler falls below its prescribed limits;

(l) Satisfy themselves that adequate and certain provision has been made for an ample supply of water to feed the boiler at all times so that in high pressure boilers the water shall not be less than four inches above crown of flue sheet in upright boilers;

(m) Satisfy themselves that means for blowing out are provided so that mud, sediment or scale may be removed while the boiler is under steam.



7. The provisions of this Ordinance respecting the inspection of boilers shall not apply to any boiler insured and inspected by any duly incorporated boiler insurance company doing business in Canada if the owner or owners of such boilers shall when required by an inspector appointed under the provisions of this Ordinance produce the certificate of inspection from such company.

8. For the purpose of seeing that the provisions of this Ordinance are complied with any of the inspectors appointed under this Ordinance may at any reasonable hour enter upon any lands or into any building where any steam boiler is operated.

(2) Any person interfering with or obstructing any inspector in the performance of his duties under this Ordinance shall be guilty of an offence and liable on summary conviction to a penalty not exceeding \$100.

9. Every owner of a boiler shall cause it to be inspected at least once in each and every year by an inspector appointed under the provisions of this Ordinance and shall pay to such inspector a fee of \$5 for such inspection, such fee to be forwarded by the inspector to the Territorial Treasurer to be credited to the general revenue fund of the territory.

(2) Upon completion of any inspection the inspector shall issue to such owner a certificate of such inspection in accordance with form "A" in the schedule hereto.

(3) Such certificate shall be produced at any time by the owner upon the demand of an inspector appointed under the provisions of this Ordinance.

(4) Any one who employs a person to operate a steam boiler who has not a certificate or permit under this Ordinance shall be guilty of an infraction of this Ordinance.

(5) All boilers of fifteen nominal horse-power or under, used for mining or prospecting purposes shall be inspected by the boiler inspector free of charge, and the use of such boiler prior to such inspection shall not be deemed an infraction of this Ordinance.

10. In subjecting to hydrostatic tests boilers usually designated as high pressure, inspectors shall assume one hundred and twenty-five pounds to the square inch as the maximum pressure allowable as a working pressure for new boilers of forty-two inches in diameter, made in the best manner of plates one-fourth of an inch thick of good materials.

11. Inspectors shall rate the working pressure of all boilers according to their strength as compared with the standard provided in the next preceding section, but the working pressure allowed in the operation of any boiler shall not exceed three-fourths of the hydrostatic test pressure to which such boiler has been subjected at the time of the inspection.

12. In addition to the annual inspection of all boilers required by this Ordinance it shall be the duty of each inspector to examine and inspect at any time any boilers which may be reported to him to be in an unsafe condition and to notify in writing the owner or person using such boiler to make such repairs as he deems necessary in order to render such boiler serviceable and safe for use.

13. Any boiler declared to be unsafe by an inspector shall not be used until such repairs as are ordered by the inspector have been made, and any person operating a boiler declared to be unsafe by an inspector before repairs ordered by the inspector are completed shall be guilty of an offence and upon summary conviction thereof liable to a penalty of \$100.

14. Every steam boiler shall be provided with a fusible plug of good banca tin inserted in the flues, crown sheet or other part of the boiler most exposed to the heat of the furnace when the water therein falls below the prescribed limit so that the plug will fuse and put the fire out.

15. Every steam boiler shall be provided with a reliable steam gauge of approved make.

16. The owner or operator of any steam boiler shall allow the inspector free access to the same and shall furnish water to fill the boiler to permit of the hydrostatic test being made, and when necessary shall remove any jacket or covering from the boiler as directed by the inspector. He shall also assist the inspector in making his inspection and shall point out any defect that he may know of or believe to exist in the boiler or machinery connected therewith.

17. Inspectors shall have the right at all reasonable hours to examine boilers in course of construction or undergoing repair and to refuse to grant a certificate of inspection for any boiler found to be improperly constructed or repaired or of which permission to make such inspection has been refused.

18. Every inspector shall keep a true record of all boilers inspected and all repairs ordered by him, of all boilers condemned by him as unsafe, of all accidents to boilers in his district whether by explosion or otherwise, and of all casualties in connection with boilers in his district.

19. Every inspector shall render annually on or before the thirty-first day of January in each year a concise report to the commissioner of all inspections made by him during the preceding year, and of all accidents and casualties that may have happened connected with the operation of steam boilers within his district.

20. No person shall operate a steam engine or boiler of greater capacity than fifteen horse-power nor shall any owner employ any person to operate any such engine or boiler unless he is of the full age of twenty-one years and has obtained a license as herein-after provided.

21. There shall be four classes of persons entitled to take charge of a steam engine or boiler:

(a) The first class shall be engineers qualified to take charge of any steam engine or boiler.

(b) The second class shall be engineers qualified to take charge of any steam engine or steam boiler not exceeding 100 nominal horse-power.

(c) The third class shall be engineers qualified to take charge of any steam engine or boiler not exceeding 50 nominal horse-power.

(d) The fourth class shall be firemen qualified to take charge of any boiler when under the general supervision of an engineer of the first, second, or third class, according to the rating of the boiler.

22. Any candidate who considers he has been unfairly dealt with may appeal in writing to the Commissioner, who shall refer the appeal to a board of three engineers holding first-class certificates, said board to be appointed by the Commissioner and to hold office at his pleasure.

(a) The board shall, at once, cause such grievance to be investigated and shall give a decision in the matter which shall be final.

(b) The board, with the inspector, shall also act as a board of inquiry in all boiler accidents occurring within its jurisdiction.

(c) All engineers on taking or leaving a position must notify the inspector in writing.

(d) The rating of the horse-power of all boilers in use in the Yukon Territory shall be calculated by the inspector according to the following schedule:—

Twelve square feet of heating surface per nominal horse-power for internally fired boilers.

Fifteen square feet of heating surface per nominal horse-power for externally fired boilers.

23. The Territorial Secretary shall cause to be prepared a list of the engineers entitled to operate an engine and boiler under this Ordinance, and shall specify therein the kind of engine and boiler such engineers may operate. Said list shall include the names of all persons who were on the seventeenth day of October, 1903, possessed of certificate of qualification under the Steam Boiler Ordinance.

24. In addition to the persons so entitled to be entered on said list, every person who is the holder of a certificate of qualification from any incorporated body authorized to grant such certificates of qualification for operating steam boilers and engines or from the Dominion or any provincial government, or from any other competent authority in any other portion of the British Empire or the United States of America, shall be entitled upon making application to the Territorial Secretary and upon payment of a fee of \$5, to obtain a certificate of qualification and to be registered under the provisions of this Ordinance.

25. Any other person who may desire to qualify for registration and to obtain a certificate entitling him to operate steam boilers and engines connected therewith in the Territory and who shall have served twelve months as engineer, fireman, or oiler shall pass an examination before one of the inspectors appointed under this Ordinance to prove that he has the necessary knowledge of the construction, care, and operation of stationary steam boilers and engines connected therewith; if the inspector conducting such examination is satisfied as to the knowledge and qualification of the candidate, and also as to his having served the term of twelve months as herein provided, shall upon obtaining a fee of \$5 issue a certificate to that effect and stating the kind of boiler and engine said candidate may operate.

26. On all steam plants of over 100 horse-power where two or more engineers are employed it shall only be obligatory that the engineer in charge shall hold a first-class certificate. In such cases the holder of a second-class certificate shall be considered duly qualified to act as assistant or second engineer.

(2) On all steam plants of over 50 horse-power and not more than 100 horse-power, when two or more engineers are employed it shall only be obligatory that the engineer in charge shall hold a second-class certificate. In such cases the holder of a third-class certificate shall be considered duly qualified to act as assistant or second engineer.

(3) Not more than one certificated engineer shall be required to be on duty in connection with any one plant.

27. It shall be the duty of the boiler inspector to make all examinations of applicants for engineers' certificates in writing and in accordance with the schedule hereto annexed; questions and answers both to be placed on file and retained in the office of said inspector, such file to be open during office hours to the board appointed by the Commissioner as provided for in section 22 of this Ordinance.

28. All engineers holding second and third-class certificates under any former Ordinance shall be confined to the rating of boilers fixed by said Ordinance. Said engineers shall be required to pass an additional examination to become qualified under the rating of engineers fixed by this Ordinance. The applicant for such examination shall pay an examination fee of \$2.50.

29. Every person holding a certificate under this Ordinance shall expose it in some conspicuous place in the engine or boiler room in which he is employed or cause it to be attached to the engine or boiler of which he is in charge, and in default shall be liable on summary conviction to a penalty of not less than \$10 and not more than \$50.

(2) If such person be employed in charge of a portable engine and boiler he shall produce his certificate for inspection on being required so to do by any inspector.

(3) The absence of such certificate or its non-production on demand shall be *prima facie* evidence that the person operating the engine and boiler has no certificate.

30. In case any owner of a steam boiler shows to the satisfaction of an inspector that he is unable by reason of some unforeseen occurrence to immediately secure the services of a duly qualified person to operate such boiler the inspector may grant a permit to any person producing satisfactory evidence of good conduct and sobriety and sufficient experience to operate such boiler for a period of six months from the date of such application and in such case no penalty shall be incurred by reason of operating such steam boiler during the period covered by such permit.

(2) A fee of \$5 shall be paid to the inspector for every such permit issued by him.

#### Regulations and Forms.

31. The commissioner of the Yukon Territory may from time to time make such regulations and prescribe such forms as may be deemed necessary for the proper carrying into effect of the provisions of this Ordinance.

32. The fees payable under this Ordinance shall be paid into the general revenue fund.

#### Penalties.

33. Any person guilty of a breach of the provisions of this Ordinance for which no provision is herein made shall on summary conviction thereof be liable to a penalty not exceeding \$100.

34. Notwithstanding anything contained in this Ordinance no male person above the age of eighteen years shall be obliged to obtain a certificate entitling him to operate any steam boiler or engine outside of the towns of Dawson, Whitehorse and Klondike City.

#### SCHEDULE.

(Form A omitted.)

#### RULES TO BE OBSERVED IN THE EXAMINATION OF ENGINEERS.

##### Fireman.

The fireman will be required (1) to possess some elementary knowledge of boiler management under working steam pressure; (2) to know the use to which the different fittings are put; (3) to be able to ascertain when they are working properly and how to act should they get out of good working order so as to secure complete safety; (4) to know the manner of firing economically and skilfully and the methods of keeping boilers clean internally, and (5) how to act in case of low water and hot plates, etc.

##### Third-class Engineer.

The third-class engineer will be required (1) to possess, in addition to the requirements of a fireman, a general elementary knowledge of how boilers are constructed, set in brick work and fitted up complete with all connections; (2) to be able to keep pipes and fittings in good tight condition; (3) to understand foaming, priming, incrustation, corrosion, and their remedies; (4) to be able to detect anything going wrong or weakens developing; (5) to have at least one year's experience as fireman in this Territory or elsewhere, and (6) generally to understand the working of a steam engine, and be able to handle and attend to the same in case the establishment be not large enough to warrant the employment of two engineers. He shall be able to read and write a legible hand and understand the first five rules of arithmetic.

##### Second-class Engineer.

The engineer of the second-class will be required (1) to have had at least two years' experience in the handling of a steam engine as per third-class; (2) to understand the design and construction of steam boilers and engines, and the principle that regulates

the strength and design of the various parts and details of same; (3) to be conversant with the setting of engine valves; (4) to be able efficiently to supervise the working of said boilers and to keep in good safe condition; (5) to know how to read and write a legible hand, and (6) to be conversant with the first five rules of arithmetic and decimals.

#### First-class Engineer.

The engineer of the first-class must be able (1) to take charge of any boiler (2) calculate the thickness of plates required for a boiler of given dimensions and construction to carry a fixed pressure of steam, and also the dimensions and construction of the boiler and thickness of plates; (3) being given the pressure that the boiler may carry he must be able to calculate the strength of its stays, connections, joints and other parts, the tensile and crushing strength of the material use in its construction; (4) to calculate the required capacity of the feedpump, the area of the safety valve for a boiler of given size or dimensions, and the power of the engine from a diagram of its workings; (5) to define the position of the crank and eccentric as indicated by a diagram, (6) to know the relative volume of steam and water at given temperature and pressures, the chemical constituents of coal, its heating and mechanical equivalents and the quantity of air required for its combustion; (7) to be competent to make a working drawing of any part of an engine, and explain the operation of the engine or any of its parts in connection with the whole; (8) to be conversant with surface condensation and the working of steam expansively, and (9) he must understand the construction of and be able to maintain in a working condition dynamos of ordinary types; (10) his knowledge of arithmetic must include the extraction of the square and cube root. The examination will be made *viva voce*, but may be in writing in certain cases, at the discretion of the inspector, who may, at any time, if he deems it necessary, re-examine the applicant.

#### Wages as Preferred Claims—In Liquidations.

Chapter 18.—277. In a winding-up there shall be paid in priority to all other debts—

(a) All assessed taxes, rates, real property tax, personal property tax, wild land tax, coal land tax, timber land tax, or income tax assessed on the company up to the first day of January next before that date, and not exceeding in the whole one year's assessment; and

(b) All wages or salary of any clerk or servant in respect of services rendered to the company during three months before the said date, not exceeding two hundred and fifty dollars; and

(c) All wages of any workman or labourer, whether payable for time or for piece work, in respect of services rendered to the company during three months before the said date; and

(d) Unless the company is being wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company, all amounts (not exceeding in any individual case five hundred dollars) due in respect of compensation under the Workmen's Compensation Ordinance.

(2) The foregoing debts shall—

(a) Rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions; and

(b) In so far as the assets of the company available for payment of general creditors are insufficient to meet them have priority over the claims of holders of debentures under any floating charge created by the company and be paid accordingly out of any property comprised in or subject to that charge.

(3) Subject to retention of such sums as may be necessary for the costs and expenses of the winding-up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.

(4) In the event of the landlord or other person distraining or having distrained on any goods or effects of the company within one month next before the date of a winding-up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof.

Provided that in respect of any money paid under any such charge the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(5) The date hereinbefore in this section referred to is—

(a) In the case of a company ordered to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding-up order; and

(b) In any other case, the date of the commencement of the winding-up.

#### Wages as Preferred Claims—In Executions.

Chapter 24.—3. Subject to the provisions hereinafter contained there shall be no priority among creditors by execution from the Territorial Court of the Yukon Territory.

(a) If a sheriff levies money upon an execution against the property of a debtor he shall forthwith enter in a book to be kept in his office open to public inspection without charge a notice stating that such levy has been made and the amount and date thereof and the money levied shall at the expiration of two months from the levy unless otherwise ordered by a Judge be distributed ratably amongst all execution creditors whose writs were in the sheriff's hands at the time of the levy or who have delivered executions to the said sheriff within the said two months or within such further time as is ordered by a Judge, subject, however, to the provision hereinafter contained as to the payment of the costs of the creditor under whose writ the amount was levied:

Provided that if money is realized by sale of lands for which a certificate of title has been granted under The Lands Titles Act, the said period of two months shall be computed from the date of confirmation of the sheriff's sale under the said Act.

18. All persons in the employment of an execution debtor at the time of the notice mentioned in subsection (a) of section 3 of this Ordinance, or within one month before such notice, who shall become entitled to share in the distribution of money levied out of the property of a debtor, shall be entitled to be paid out of such money the wages or salary due to them by such judgment debtor, not exceeding one month's wages or salary, in priority to the claims of the other creditors of the execution debtor and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claim.

### Protection of Employees as Voters.

Chapter 28.—99. No person shall directly or indirectly by himself or by any other person on his behalf do or commit any of the following acts:—

(5) Make use of or threaten to make use of any force, violence or restraint, or inflict or threaten the infliction by himself or by or through any other person of any injury, damage, harm, or loss, or in any manner practice intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or by abduction, duress or by any fraudulent device or contrivance impede, prevent or otherwise interfere with the free exercise of the franchise of any voter or thereby compel, induce or prevail upon any voter either to give or refrain from giving his vote at any election.

(6) Any person convicted of a breach of this section shall be liable to a penalty not exceeding \$500.

### Liability of Employers for Injuries to Workmen.

Chapter 29.—1. This Ordinance may be cited as The Employers' Liability Ordinance.

2. Unless otherwise declared or indicated by the context wherever any of the following words or expressions occur in this Ordinance, they shall have the meanings hereinafter expressed, that is to say:

(1) The expression "superintendence" shall, unless a contrary intention appears, be construed as meaning such general superintendence over workmen as is exercised by a foreman or person in like position to a foreman, whether the person exercising superintendence is or is not ordinarily engaged in manual labour;

(2) The expression "employer" shall, unless a contrary intention appears, include a body of persons, corporate or unincorporate, and also the legal personal representatives of a deceased employer, and the person liable to pay compensation under section 5 of this Ordinance;

(3) The expression "workman" does not include a domestic or menial servant, but, save as aforesaid, means any railway servant, and any person who being a labourer, servant in husbandry, journeyman, artificer, handicraftsman, miner or otherwise engaged in manual labour, whether under the age of twenty-one years or above that age, has entered into or works under a contract with an employer, whether the contract be made before or after the passing of this Ordinance, be expressed or implied, oral or in writing, and be a contract of service or a contract personally to execute any work or labour;

(4) The expression "railway servant" shall mean and include a railway servant and tramway servant;

(5) The word "packing" shall mean a packing of wood or metal or some other equally substantial and solid material, of not less than two inches in thickness, and which, when filled in, shall extend to within two inches of the crown of the rails in use on any railway, shall be neatly fitted so as to come against the web of such rails, and shall be well and solidly fastened to the ties on which such rails are laid.

3. Where, after the commencement of this Ordinance, personal injury is caused to a workman—

(1) By reason of any defect in the condition or arrangement of the ways, works, dredges, machinery, plant, buildings, or premises connected with, intended for, or used in the business of the employer, or by reason of any defect in the construction of any stages, scaffolds or other erections erected by or for the employer, or in the materials used in the construction thereof; or

(2) By reason of the negligence of any person in the service of the employer, who has any superintendence entrusted to him whilst in the exercise of such superintendence;

(3) By reason of the negligence of any person in the service of the employer to whose orders or direction the workman at the time of the injury was bound to conform and did conform, which such injury resulted from his having so conformed; or

(4) By reason of the act or omission of any person in the service of the employer done or made in obedience to the rules or by-laws of the employer, or in obedience to particular instructions given by the employer or by any person delegated with the authority of the employer in that behalf; or

(5) By reason of the negligence of any person in the service of the employer who has the charge or control of any signal points, locomotive, engine, machine or train upon a railway or tramway; or

(6) By reason of the negligence of any telegraph operator or train despatcher in the service of the employer;

the workman, or, in case the injury results in death, the legal personal representatives of the workman, shall have the same right of compensation and remedies against the employer as if the workman had not been a workman of, nor in the service of the employer nor engaged in his work.

4. Where within this Territory personal injury is caused to a workman employed on or about any railway—

(1) By reason of the lower beams or members of the superstructure of any highway, or other overhead bridge, or any other erection or structure over said railway, not being of a sufficient height from the surface of the rails to admit of an open and clear headway of at least seven feet between the top of the highest freight car then running on such railway and the bottom of such lower beams or members; or

(2) By reason of the space between the rails in any railway frog, extending from the point of such frog backwards to where the heads of such rails are not less than five inches apart, not being filled in with packing; or

(3) By reason of the space between any wing-rail and any railway frog, and between any guard-rail and any other rail fixed and used alongside thereof as aforesaid, and between all wing-rails where no other rail intervenes (save only where the space between the heads of any such wing-rail where no other rail intervenes as aforesaid is either less than one and three-quarters of an inch or more than five inches in width) not being at all times during every month of April, May, June, July, August, September, and October, filled in with packing;

Such injury shall be deemed and taken to have been caused by reason of a defect within the meaning of subsection (1) of section 3 of this Ordinance. But nothing in this section contained shall be taken or construed as in any respect or for any purpose restricting the meaning of said subsection.

5. Where the execution of any work is being carried into effect under any contract, and

(a) The person for whom the work or any part thereof is done, owns or supplies any ways, works, dredges, machinery, plant, stages, scaffolds or the materials therefor, buildings, or premises used for the purpose of executing the work; and

(b) By reason of any defect in the condition or arrangement of such ways, works, dredges, machinery, plant, stages, scaffolds, or the materials therefor, buildings or premises, personal injury is caused to any workman employed by the contractor or by any sub-contractor; and

(c) The defect or failure to discover or remedy the defect arose from the negligence of the person for whom the work or any part thereof is done, or of some person being in his service and entrusted by him with the duty of seeing that such condition or arrangement is proper;

the person for whom the work, or that part of the work, is done shall be liable to pay compensation for the injury as if the workman had been employed by him, and for that purpose shall be deemed to be the employer of the workman within the meaning of this Ordinance: Provided always that any such contractor or sub-contractor shall be liable to pay compensation for the injury as if this section had not been enacted, so however, that double compensation shall not be recoverable for the same injury;

(2) Nothing in this section contained shall affect any rights or liabilities of the person for whom the work is done and the contractor or sub-contractor (if any) as between themselves.

6. In an action against an employer under this Ordinance, a workman shall not, by reason only of his continuing in the employment of the employer with knowledge of the defect, negligence, act or omission, which caused his injury, be deemed to have voluntarily incurred the risk of the injury.

7. A workman shall not be entitled under this Ordinance to any right of compensation or remedy against the employer in any of the following cases, that is to say:

(1) Under subsection (1) of section 3, unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person entrusted by him with the duty of seeing that the condition or arrangement of the ways, works, dredges, machinery, plant or premises are proper, or that no defect exists in the construction of any stages, scaffolds or other erections erected by or for the employer, or in the materials used in the construction thereof;

(2) Under subsection (4) of section 3, unless the injury resulted from some impropriety or defect in the rules, by-laws or instructions therein mentioned; provided, that where a rule or by-law has been approved or has been accepted as a proper rule or by-law, either by the Commissioner in Council, or under and pursuant to any provision in that behalf of any Ordinance of the Council of the Yukon Territory, or Act of the Parliament of Canada, it shall not be deemed for the purposes of this Ordinance to be an improper or defective rule or by-law;

(3) In any case where the workman knew of the defect or negligence which caused his injury, and failed, without reasonable excuse, to give or cause to be given, within a reasonable time, information thereof to the employer or the person in superintendence, unless he was aware that the employer or such superior already knew of the said defect or negligence.\*

8. The amount of compensation recoverable under this Ordinance shall not exceed either such sum as may be found to be equivalent to the estimated earnings during the three years preceding the injury of a person in the same grade employed during those years in the like employment within this territory, or the sum of two thousand five hundred dollars, whichever is larger; and such compensation shall not be subject to any deduction or abatement, by reason, or on account, or in respect of any matter or thing whatsoever, save such as is specially provided for in section 11 of this Ordinance.

9. An action for the recovery under this Ordinance of compensation for an injury shall not be maintainable against the employer of the workman unless notice in writing that injury has been sustained is given by a person entitled to recover compensation or by any one authorized in writing by such person, within six months, and the action is commenced within nine months from the occurrence of the accident causing the injury, or in case of death, within fifteen months from the time of death.

10. No contract or agreement made or entered into by a workman shall be a bar or constitute any defence to an action for the recovery under this Ordinance for compensation for an injury;

(1) Unless for such workman entering into or making such contract or agreement there was other consideration than that of his being taken into or continued in the employment of the defendant; nor

(2) Unless such other consideration was, in the opinion of the court or judge before whom such action is tried, ample and adequate; nor

(3) Unless, in the opinion of such court or judge, such contract or agreement, in view of such other consideration, was not on the part of the workman improvident, but was just and reasonable;

and the burthen of proof in respect of such other consideration and of the same being ample and adequate, as aforesaid, and that said contract was just and reasonable and was not improvident, as aforesaid, shall, in all cases, rest upon the defendant: Provided always, that notwithstanding anything in this section contained, no contract or agreement whatsoever made or entered into by a workman shall be a bar or constitute any defence to an action for the recovery under this Ordinance of compensation for any injury happening or caused by reason of any of the matters mentioned in section 4 of this Ordinance.

11. There shall be deducted from any compensation awarded to any workman or representatives of a workman, or persons claiming by, under, or through a workman in respect of any cause or action arising under this Ordinance, any penalty or damages or part of a penalty or damages, which may in pursuance of any Act of the Parliament of Canada or Ordinance of the Council of the Yukon Territory, have been paid to such workman, representatives, or persons in respect of the same cause or action; and where an action has been brought under this Ordinance by any workman, or the representatives of any workman, or any persons claiming by, under, or through such workman for compensation in respect of any cause of action arising under this Ordinance, and payment has not previously been made of any penalty or damages, or part of a penalty or damages under any such act of the said Parliament, or Ordinance of the said Council, in respect of the same cause of action, such workman, representatives or persons shall not, so far as the said Council has power so to enact, be entitled thereafter to receive in respect of the same cause of action any such penalty or damages, or part of a penalty or damages, under such last-mentioned Ordinance.

12. (1) Notice in respect of any injury under this Ordinance shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which it was sustained, and shall be served on the employer, or if there is more than one employer, upon one of such employers;



(2) The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served;

(3) The notice may also be served by post, by a registered letter, addressed to the person on whom it is to be served at his last known place of residence or place of business, and if served by post shall be deemed to have been served at the time when a letter containing the same would be received in the ordinary course of post, and in proving the service of such notice it shall be sufficient to prove that the notice was properly addressed and registered;

(4) When the employer is a body of persons corporate or unincorporate the notice shall be served by delivering the same at or by sending it by post in a registered letter addressed to the office, or if there be more than one office, any one of the offices of such body;

(5) A notice under this section shall be deemed sufficient if in the form or to the effect following:

To A. B., of (here insert employer's address)

or to the

Company (or as the case may be)

Take notice that on the                      day of                      , 19      , C. D., of (here insert address of injured person), a workman in your employ, sustained personal injury (add "of which he died" if such be the case), and that such injury was caused by (state shortly cause of the injury, e.g., the fall of a beam).

Date,

Yours, etc.,

X Y

13. If the defendant in any action against an employer for compensation for an injury sustained by a workman in the course of his employment intends to rely for a defence on the insufficiency of notice, or on the ground that he was not the employer of the workman injured, he shall, not less than seven days before the hearing of the action or such other time as may be fixed by the rules regulating the practice of the court in which the action is brought, give notice to the plaintiff of his intention to rely on that defence, and the court may, in its discretion, and upon such terms and conditions as may be just in that behalf, order and allow an adjournment of the case for the purpose of enabling such notice to be given and subject to any such terms and conditions, any notice given pursuant to and in compliance with the order in that behalf, shall, as to any such action and for all purposes thereof, be held to be a notice given pursuant to and in conformity with sections 9 and 12 of this Ordinance.

14. When in any action under this Ordinance compensation is awarded in the case of death of a workman for an injury sustained by him in the course of his employment, the amount recovered after deducting the costs not recovered from the defendant, may, if the court or judge before whom the action is tried so directs, be divided between wife, husband, parent and child of the deceased in such shares as the court or judge with or without assessors, as the case may be, or if the action is tried by a jury, as the jury may determine.

15. Notwithstanding anything contained in this Ordinance, an action under sections 3, 4 and 5 of this Ordinance shall lie against the legal personal representatives of a deceased employer.

16. In any action brought under this Ordinance the particulars of demand or statement of claim shall state in ordinary language the cause of the injury, and the date at which it was sustained, and the amount of compensation claimed; and where the action is brought by more than one plaintiff, the amount of compensation claimed by such plaintiff and where the injury of which the plaintiff complains shall have arisen by reason of the negligence, act or omission of any person in the service of the defendant, the particulars shall give the name and description of such person.

17. (1) Upon the trial of any action for the recovery of compensation under this Ordinance before a judge without a jury, one or more assessors may be appointed by the court or judge for the purpose of ascertaining the amount of compensation and the remuneration (if any) to be paid to such assessors shall be fixed and determined by the judge at the trial.

(2) Any person who shall, as hereinafter provided, be appointed to act as an assessor in such action, shall be qualified so to act;

(3) In any such action a party who desires assessors to be appointed shall, eight clear days at least before the day for holding the court at which the action is to be tried, file an application stating the number of assessors he proposes to be appointed, and the names, addresses and occupations of the persons who may have expressed their willingness in writing to act as assessors. If the applicant has obtained the consent of the other party to the persons named being appointed, he shall file such consent with his application;

(4) Where the application for the appointment of assessors has been made by one party to an action only, he shall, five clear days at least before the day for holding the court at which the action is to be tried, serve a copy of the application so filed, upon the other party, who may then either file an application for assessors, or file objections to one or more of the persons proposed;

(5) An application for the appointment of assessors may be in the form following or to the like effect, namely:

In the Territorial Court of the Yukon Territory.

The Employers' Liability Ordinance.

Between

—and—

Plaintiff,

Defendant.

The plaintiff (or defendant) applies to have an assessor (or assessors) appointed to assist the Court in ascertaining the amount of compensation to be awarded to the plaintiff, should the judgment be in his favour, and he submits the names of the following persons, who have expressed their willingness in writing to act as assessors should they be appointed. (Here set out the names, addresses and occupations of the persons above referred to). (If the other party consent to the appointment, add the following:)

The defendant (or plaintiff) consents to the appointment of any of the persons above named to act as assessors in this action, as appears by his consent thereto filed therewith.

Dated this                      day of

A. B. The above named plaintiff (or as the case may be).

(6) Where separate applications are filed by the parties no objections to the persons proposed shall be made by either party, but the Court or Judge may appoint from the persons named in each such application one or more assessor or assessors provided that the same number of assessors be appointed from the names given in such applications respectively;

(7) Where application for the appointment of assessors is granted the Court or Judge shall appoint such of the persons proposed for assessors as by the Court or Judge may be deemed fit, subject to the provisions contained in this Ordinance;

(8) In any such action where an application for the appointment of assessors has been filed, the Court or Judge may, at any time prior to the trial thereof, nominate one or more additional persons to act as assessors in the action. Where no application for assessors has been made, the Court or Judge may appoint any one or more persons to act as assessor or assessors in the action before or on the trial of the action;

(9) If at the time and place appointed for the trial all or any of the assessors appointed shall not attend, the Court or Judge may either proceed to try the action with the assistance of such of the assessors, if any, as shall attend, or may adjourn the trial generally, or upon any terms which the Court or Judge may think fit, or may appoint any person who may be available and who is willing to act, and who is not objected to, or who, if objected to is objected to on some insufficient ground or the Court or Judge may try the action without assessors;

(10) Every person requiring the Court or Judge to be assisted by assessors shall, at the time of filing his application, deposit therewith the sum of five dollars for each assessor proposed, and a further sum of five dollars for each assessor nominated by him and acting on each day of said trial after the first day, and such payments shall be considered as costs in the action, unless otherwise ordered by the Court or Judge: Provided, that where a person proposed as an assessor shall have in writing agreed and consented that he will not require his remuneration to be so deposited, no deposit in respect of such person shall be required;

(11) Where an action shall be tried by the Court or Judge with the assistance of any assessors in addition to or independently of any assessors proposed by the parties, the remuneration of such assessors shall be borne by the parties or either of them, as the Court or Judge shall direct;

(12) If after an assessor has been appointed the action shall not be tried, the Court or Judge shall have power to make an allowance to him in respect of any expense or trouble which he may have incurred by reason of his appointment, and direct the payment to be made out of any sum deposited for his remuneration;

(13) The assessors shall sit with and assist the Court or Judge when required with their opinion and special knowledge for the purpose of ascertaining the amount of compensation, if any, which the plaintiff shall be entitled to recover.

18. (1) Where several actions shall be brought under this Ordinance against a defendant in the same Court in respect of the same negligence, act or omission, the defendant shall be at liberty to apply to the Judge that the said actions shall be consolidated,

(2) Applications for consolidation of actions shall be made upon notice to the plaintiffs affected by such consolidation;

(3) In case several actions shall be brought under this Ordinance against a defendant in the same Court in respect of the same negligence, act or omission, the defendant may, on filing an undertaking to be bound so far as his liability for such negligence, act or omission, is concerned by the decision in such one of said actions as may be selected by the Court or Judge, apply to the Court or Judge for an order to stay the proceedings in the actions, other than in the one so selected, until judgment is given in such selected action;

(4) Applications for stay of proceedings shall be made upon notice to the plaintiffs affected by stay of proceedings or *ex parte*.

(5) Upon the hearing of any application for consolidation of actions or for stay of proceedings, the Court or Judge shall have power to impose such terms and conditions and make such order in the matter as may be just;

(6) If any order shall be made by a Court or Judge upon an *ex parte* application to stay proceedings it shall be competent to the plaintiffs affected by such order to apply to the Court or Judge (as the case may be) upon notice *ex parte* to vary or discharge the order so made and upon such last-mentioned application such order shall be made as the Court or Judge shall think fit, and the Court or Judge shall have power to dispose of the costs occasioned by such order or orders as may be deemed right;

(7) In case a verdict or judgment in the selected action shall be given against the defendant, the plaintiffs in the actions stayed shall be at liberty to proceed for the purpose of ascertaining and recovering their damages and costs;

(8) A defendant may, by notice to the opposite party to be given or served at least six days before the day appointed for the trial of the action, admit the truth of any statement of his liability for any alleged negligence, act or omission as set forth or contained in the plaintiff's statement or particulars of claim in the action, and after such notice given the plaintiff shall not be allowed any expense thereafter incurred for the purpose of proving the matters so admitted;

(9) Where two or more persons are joined as plaintiffs under subsection (1) of this section, and the negligence, act or omission which is the cause of action shall be proved, the judgment shall be for all the plaintiffs, but the amount of compensation, if any, that each plaintiff is entitled to shall be separately found and set forth in the judgment, and the amount of costs awarded in the action shall be ordered to be paid such person and in such manner as the Court or Judge may think fit. Should the defendant fail to pay the several amounts of compensation and the costs awarded in the action, execution may issue as in an ordinary action, and should the proceeds of the execution be insufficient, after deducting all costs, to pay the whole of the amounts awarded, a dividend shall be paid to each plaintiff, calculated upon the proportion of the amount which shall have been awarded to the respective plaintiffs to the total amount realized after the deduction of all the costs of the action as aforesaid.

19. In any action brought to recover compensation under this Ordinance the forms and methods and the rules and orders in force in the Territorial Court of the Yukon Territory, shall, subject to and save as otherwise provided by the terms and provisions of this Ordinance, apply to and regulate all matters of pleading, practice and procedure in such action, and notwithstanding anything in this Ordinance contained, the forms and methods and the pleadings, practice and procedure in any such action shall conform to and be regulated by any rules or order in that behalf hereafter lawfully and duly made or prescribed with respect to actions brought in said court.

#### Fire Prevention—Regulation of Explosives.

Chapter 36.—1. No person shall keep on any premises a larger quantity of gunpowder or other explosive than twenty-five pounds unless the same is stored at least one hundred feet from any building, nor shall any greater quantity than one hundred pounds be kept within any fire limits nor within one mile from the centre thereof.

2. No person shall keep on any premises a greater quantity of kerosene than one hundred and twenty gallons or a greater quantity of gasoline than forty gallons, unless the same is stored at least sixty-five feet from any building.

5. There shall be a space of at least nine inches between any stovepipe and partition or floor through which it passes unless such stovepipe is surrounded in such partition or floor by a thimble of brick, cement, or concrete at least two inches in width and of the full thickness of such partition or floor, or by a metal safety flue with an air space of at least three inches.

(2) At least twelve inches shall intervene between any stovepipe in use and the partition or wall nearest thereto.

7. The Commissioner may by proclamation published in the Yukon Official Gazette and in one newspaper published in the district affected by such proclamation (if there is one published in said district), establish fire limits within the boundaries of which

no person shall erect, or after a date therein named, maintain any building or structure of any description constructed or partly constructed, as to its outer walls and roof, of any material other than wood, brick, stone or metal, and any building or other structure erected or maintained contrary to this section may after a notice to that effect has been posted on such building for five days, be pulled down and destroyed without compensation by any person under direction of the officer for the time being commanding the Royal Northwest Mounted Police in said district.

8. Any person guilty of a violation of any of the provisions of this Ordinance shall be liable on summary conviction, to a penalty not exceeding fifty dollars and costs, and in default of payment to imprisonment for a period not exceeding three months.

9. In this Ordinance the expression "village" shall extend to and include any collection of not less than five inhabited or occupied buildings which are not more than one hundred feet apart and will apply to towns or villages outside of Dawson.

10. No person shall hereafter place any stove or range in any house or building without leaving twenty inches clear from any woodwork, immediately above such stove or range and fourteen inches from any woodwork opposite the sides, unless the same is covered by a zinc guard backed with asbestos, and will leave a clear open space between such range or stove. Floors under all stoves shall be protected by a covering of incombustible material.

11. All ovens, furnaces or stoves shall be properly connected with a chimney of brick, stone or metal, extending at least three feet clear of any roof, and all stovepipes where passing through any floor, wall, partition or roof shall be protected with a thimble of metal having an air space of at least four inches and having a metal core built in same, such core to be at least one-half an inch larger than the stovepipe passing through it, and said thimble shall be the full width of floor, wall, partition or roof through which it passes.

13. The standard weight of metal for stovepipes shall be inside or interior pipes, number 24 gauge steel; exposed or exterior, number 24 gauge galvanized steel; all of which must be properly guyed and riveted and so constructed as to admit of their being scraped, brushed or cleaned. No person shall maintain, use or permit to be used within the village any pipe or pipes of a lighter weight than number 24 gauge steel, and all such pipe of a lighter weight may be condemned by any member of the Royal Northwest Mounted Police specially detailed for that purpose or by any other person named by the Commissioner, and may be removed or destroyed upon the order of a stipendiary magistrate having jurisdiction in the village.

14. All persons shall keep their chimneys and stovepipes in good repair and have the same properly cleaned once a month.

15. Any member of the Royal Northwest Mounted Police specially detailed for that purpose or any other person named by the Commissioner may at any time during day time enter any inhabited or occupied building in any village to inspect the same regarding the provisions of this Ordinance.

16. This Ordinance shall not apply to the city of Dawson.

### Sanitation of Factories.

[Chapter 40, The Health Ordinance, section 2, defines "house" as including factories and other buildings used for human work. Section 5 enumerates in a number of clauses the subjects for which the medical health officer may provide by sanitary regulations. Among these is the following:—]

(3) For cleaning, purifying, ventilating and disinfecting houses . . . by the owners or the persons having the care thereof.

### Earnings of Minors—Suits for Wages.

Chapter 48.—10. The law to be administered in the Territory as to the matters next hereinafter mentioned shall be as follows:—

(13) Minors may sue for wages in the same way as if of full age.

### Exemption of Wages from Attachment.

Chapter 48.—408. Unless the debt sued for or in respect of which the judgment was recovered has been contracted for board and lodging, the wages or salary of a mechanic, workman, labourer, clerk or employee shall not be liable to seizure or attachment, unless such wages or salary exceeds the rate of seventy-five dollars per month, and then only to the extent of the excess.

(2) All payments which have been made on account of such wages or salary during any period in which the same are being earned shall be deducted from the above exemption.

### Apprenticeship.

Chapter 48.—575. The guardian or guardians of the person of an infant so appointed may during the continuance of his or her guardianship in case the infant is under the age of fourteen years with the approbation of two justices of the peace and the consent of such ward or in the case the infant is not under the age of fourteen years then with the consent of the ward only place or bind him or her an apprentice to any lawful trade, profession or employment; such apprenticeship in the case of males not extending beyond the age of twenty-one years and in the case of females not beyond the age of eighteen years or the marriage of the ward within that age.

576. The court or judge may on proper cause being shown for that purpose discharge any such ward from the apprenticeship in the next preceding rule mentioned and order the articles or instrument of apprenticeship to be delivered up to be cancelled or make such other order in respect of the master or apprentice or either of them as under the circumstances appears to be proper and just; and may also upon reasonable complaint made and sustained remove any guardian or guardians from his or their guardianship and if it appears necessary appoint another guardian or guardians in his or their stead.

### Mechanics' Liens.

Chapter 51.—1. This Ordinance may be cited as The Mechanics Lien Ordinance.

#### Interpretation.

2. In this Ordinance.

(1) The expression "contractor" means a person contracting with or employed directly by the owner for the doing of work or placing or furnishing of machinery or materials for any of the purposes mentioned in this Ordinance.

(2) The expression "sub-contractor" means a person not contracting with or employed directly by the owner for the purposes aforesaid but contracting with or employed by the contractor or under him by another sub-contractor.

(3) The expression "owner" shall extend to and include a person having any estate or interest in the lands upon or in respect of which the work is done or materials or machinery are placed or furnished at whose request and upon whose credit or on whose behalf or consent or for whose direct benefit any such work is done, or materials or machinery placed or furnished, and all persons claiming under him whose rights are acquired after the work in respect of which the lien is claimed is commenced or the materials or machinery furnished have been commenced to be furnished.

#### Lien for Work on Materials.

3. No agreement shall be held to deprive any one otherwise entitled to a lien under this Ordinance and not a party to the agreement of the benefit of the lien but the lien shall attach notwithstanding such agreement.

4. Unless he signs an express agreement to the contrary, every mechanic, machinist, builder, miner, labourer, contractor, or other person doing work upon or furnishing materials to be used in the construction, alteration or repair of any building or erection, or erecting, furnishing or placing machinery of any kind in, upon or in connection with any building, erection or mine, shall, by virtue of being so employed or furnishing have a lien for the price of the work, machinery or materials, upon the building, erection or mine, and the lands occupied thereby or enjoyed therewith, limited in amount to the sum justly due to the person entitled to the lien.

5. The lien shall attach upon the estate and interest of the owner, as defined by this Ordinance, in the building, erection or mine, in respect of which the work is done or the materials or machinery placed or furnished and the land occupied thereby or enjoyed therewith.

(2) In cases where the estate or interest charged by the lien is lease-hold, the land itself may also with the consent of the owner thereof, be subject to said lien provided such consent is testified by the signature of such owner upon the claim of lien at the time of the registering thereof and duly verified.

(3) In case the land upon or in respect of which any work as aforesaid is executed or labour performed or upon which materials or machinery are placed is encumbered by a prior mortgage or other charge and the selling value of the land is increased by the construction, alteration or materials or machinery, the lien under this Ordinance shall be entitled to rank upon the increased value in priority to the mortgage or other charge.

6. Without prejudice to any lien which he may have under the preceding sections every mechanic, labourer or other person who performs labour for wages upon the construction, alteration or repairs of any building or erection or in erecting or placing machinery of any kind in, upon or in connection with any building, erection or mine shall to the extent of the interest of the owner have upon the building, erection or

mine and the land occupied thereby or enjoyed therewith a lien for such wages, not exceeding the wages of thirty days or a balance equal to his wages for thirty days.

(2) The lien for wages given by this section shall attach when the labour is in respect of a building, erection or mine on property belonging to the wife of the person at whose instance the work is done, upon the estate or interest of the wife in such property as well as upon that of her husband.

7. In all cases the owner shall in the absence of a stipulation to the contrary be entitled to retain for a period of thirty days after the completion of the contract ten per centum of the price to be paid to the contractor.

8. In case the lien is claimed by a sub-contractor the amount which may be claimed in respect thereof shall be limited to the amount payable to the contractor or sub-contractor (as the case may be) for whom the work has been done or the materials or machinery have been furnished or placed.

9. All payments up to ninety per centum of the price to be paid for the work, machinery or materials as defined by section 4 of this Ordinance, made in good faith by the owner to the contractor, or by the contractor to the sub-contractor, or by one sub-contractor to another sub-contractor, before notice in writing by the person claiming the lien has been given to such owner, contractor or sub-contractor (as the case may be) of the claim of such person, shall operate as a discharge *pro tanto* of the lien created by this Ordinance, but this section shall not apply to any payment made for the purpose of defeating or impairing a claim to a lien existing or arising under this Ordinance.

(2) A lien shall in addition to all other rights or remedies given by this Ordinance also operate as a charge to the extent of ten per centum of the price to be paid by the owner for the work, machinery or materials, as defined by section 4 of this Ordinance, up to ten days after the completion of the work or of the delivery of the materials in respect of which such lien exists and no longer, unless notice in writing be given as herein provided.

(3) A lien for wages for thirty days, or for a balance equal to the wages for thirty days, shall, to the extent of the said ten per cent of the price to be paid to the contractor, have priority to all other liens under this Ordinance and over any other claim by the owner against the contractor for, or in consequence of the failure of the latter to complete his contract.

10. Save as herein provided, the lien shall not attach so as to make the owner liable to a greater sum than the sum payable by the owner to the contractor.

11. All persons furnishing material to or doing labour for the person having a lien under this Ordinance in respect of the subject of such lien, who notify the owner of the premises sought to be affected thereby, within thirty days after such material is furnished or labour performed, of an unpaid account or demand against such lien holder for such material or labour, shall be entitled, subject to the provisions of sections 6 and 9 of this Ordinance, to a charge therefor *pro rata* upon any amount payable by such owner under said lien; and if the owner thereupon pays the amount of such charge to the person furnishing material and doing labour as aforesaid, such payment shall be deemed a satisfaction *pro tanto* of such lien.

12. In case of a dispute as to the validity or amount of an unpaid account or demand, of which notice is given to the owner under the next preceding section, the same shall be first determined by action in the Territorial Court in that behalf, or by arbitration in manner mentioned in section 14 of this Ordinance, at the option of the person having the unpaid account or demand against the lien holder; and pending the proceedings to determine the dispute, so much of the amount of the lien as is in question therein may be withheld from the person claiming the lien.

13. In case the person primarily liable to the person giving such notice as mentioned in section 11 of this Ordinance, fails to pay the amount awarded within ten days after the award is made or judgment given, the owner, contractor, or sub-contractor may pay the same out of any moneys due by him to the person primarily liable as aforesaid, on account of the work done or materials or machinery furnished or placed in respect of which the debt arose; and such payment, if made after an award or judgment, or if made without any arbitration or suit having been previously had or dispute existing, then, if the debt in fact existed, and to the extent thereof shall operate as a discharge *pro tanto* of the moneys so due as aforesaid to the person primarily liable.

14. In case a claim is made by a sub-contractor in respect of a lien on which he is entitled, and a dispute arises as to the amount due or payable in respect thereof, the same shall be settled by arbitration.

(2) One arbitrator shall be appointed by the person making the claim, one by the person by whom he was employed, and the third arbitrator by the two so chosen.

(3) The decision of the arbitrators or a majority of them shall be final and conclusive.

(4) In case either of the parties interested in any such dispute refuses or neglects within three days after notice in writing requiring him to do so, to appoint an arbitra-

tor, or if the arbitrators appointed fail to agree upon a third, the appointment may be made by a judge of the Territorial Court.

15. During the continuance of a lien no portion of the property or machinery affected thereby shall be removed to the prejudice of the lien; and any attempt at such removal may be restrained by application to the Territorial Court or a judge thereof.

#### Registration of Lien.

16. A claim of lien applicable to the case may be deposited in the land titles office of the Yukon land registration district and shall state:

(a) The name and residence of the claimant, and of the owner of the property to be charged and of the person for whom and upon whose credit the work is done or materials or machinery furnished and the time or period within which the same was or was to be done or furnished;

(b) The work done or material or machinery furnished;

(c) The sum claimed as due or to become due;

(d) The description of the property to be charged;

(e) The date of expiring of the period of credit agreed to by the lien holder for payment for his work, materials or machinery where credit has been given.

(2) Such claims shall be verified by the affidavit of the claimant or his agent.

17. A claim for wages may include the claims of any number of mechanics, labourers or other persons aforesaid who may choose to unite them, in such case each claimant shall verify his claim by his affidavit but need not repeat the facts set out in the claim and an affidavit substantially in accordance with form D in the schedule to this Ordinance shall be sufficient.

18. The registrar upon payment of the proper fee shall enter and register the claim as an encumbrance against the land or the estate or interest in land therein described as provided in The Land Titles Act. The said claim of lien may be described as a mechanic's lien.

19. Where a claim is so deposited the person entitled to the lien shall be deemed as a purchaser *pro tanto*.

20. Where the lien is for wages under section 6 or 9 of this Ordinance the claims may be registered:

(a) At any time within thirty days after the last day's labour for which the wages are payable; or

(b) At any time within thirty days after the completion of the construction, alteration or repair of the building or erection or after the erecting or placing of the machinery in or towards which, respectively, the labour was performed and the wages earned but so that the whole period shall not exceed sixty days from the last day's labour aforesaid.

(2) Such lien shall not be entitled to the benefit of the provisions of sections 6 and 9 of this Ordinance after the said respective periods unless the same is duly registered before the expiration of the said periods so limited.

(3) Such lien shall have the same priority for all purposes after as before registration.

21. In other cases the claim of lien may be deposited before or during the progress of the work or within thirty days from the completion thereof or from the supplying or placing the machinery.

#### Proceedings to Realize Lien.

22. Every lien which has not been duly deposited under the provisions of this Ordinance shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof unless in the meantime proceedings are instituted to realize the claim under the provisions of this Ordinance and a certificate thereof (which may be granted by the court in which or judge before whom the proceedings are instituted) is duly filed in the land titles office of the Yukon land registration district.

23. Every lien which has been duly deposited under the provisions of this Ordinance shall absolutely cease to exist after the expiration of ninety days after the work has been completed or materials or machinery furnished or wages earned or the expiry of the period of credit where such period is mentioned in the claim of lien filed unless in the meantime proceedings are instituted to realize the claim under the provisions of this Ordinance and a certificate thereof (which may be granted by the court in which or judge before whom the proceedings are instituted) is duly registered in the land titles office of the Yukon land registration district.

24. If there is no credit or if the date of expiry of the period of credit is not stated in the claim so filed the lien shall cease to exist upon the expiration of ninety days after the work has been completed or materials or machinery furnished unless in the meantime proceedings shall have been instituted pursuant to section 23 of this Ordinance.

25. In all cases the lien may be realized in the Territorial Court according to the ordinary procedure of that court.



26. Any number of lien-holders may join in one action and any action brought by a lien-holder shall be taken to be brought on behalf of all the lien-holders of the same class who shall have registered their liens before or within thirty days after the commencement of the action or who shall within the said thirty days file in the proper office of the court from which the writ issued a statement of their respective claims intituled in or referring to the said action.

(2) In the event of the death of the plaintiff or his refusal or neglect to proceed any other lien-holder of the same class who has registered his claim or filed his statement in the manner and within the time above limited for that purpose may be allowed to prosecute and continue the action on such terms as are considered just and reasonable by the court or judge.

(3) In case of a sale of the estate and interest charged with the lien the court or judge may direct the sale to take place at any time after one month from the recovery of judgment and it shall not be necessary to delay the sale for a longer period than is requisite to give reasonable notice thereof.

(4) The said court or judge may also direct the sale of any machinery and authorize its removal.

(5) When judgment is given in favour of a lien the court or judge may add to the judgment the costs of and incidental to registering the lien as well as the costs of the action.

(6) Where there are several liens under this Ordinance against the same property each class of the lien-holders shall, subject to the provisions of sections 5, 9, and 11 of this Ordinance, rank *pari passu* for their several amounts against the said property and the proceeds of any sale shall, subject as aforesaid, be distributed amongst such lien-holders *pro rata* according to their several classes and rights and they shall respectively be entitled to execution for any balance due to them respectively after said distribution.

(7) Upon application the court or judge may receive security or payment into court in lieu of the amount of the claim and may thereupon vacate the registry of the lien.

(8) The court or judge may annul the said registry upon any other ground.

(9) In any of the cases mentioned in subsections (7) and (8) the court or judge may proceed to hear and determine the matter of the said lien and make such order as seems just and in case the person claiming to be entitled to such lien has wrongfully refused to sign a discharge thereof or without just cause claims a larger sum than is found by such court or judge to be due the court or judge may order and adjudge him to pay the costs to the other party.

#### Death of Lien-holder.—Assignment of Lien.

27. In the event of the death of a lien-holder his right of lien shall pass to his personal representatives and the right of a lien-holder may be assigned by any instrument in writing.

#### Discharge of a Lien.

28. A lien may be discharged by a receipt signed by the claimant or his agent duly authorized in writing acknowledging payment and verified by affidavit and filed; such receipt shall be numbered and entered by the registrar like other instruments, but need not be copied in any book; the fees shall be the same as for registering a claim of lien.

29. When there is a contract for the prosecution of the work as hereinbefore mentioned the registration of all discharges of liens shall be at the cost of the contractor unless a court or judge otherwise orders.

#### Execution against Person Supplying Material.

30. Where any mechanic, artisan, machinist, builder, miner, contractor or any other person has furnished or procured materials for use in the construction, alteration or repair of any building, erection or mine at the request of and for some other person, such materials shall not be subject to execution or other process to enforce any debt (other than for the purchase thereof) due by the person furnishing or procuring such materials, and whether the same have or not been in whole or in part worked into or made part of such building or erection.

#### Liens on Chattels.

31. Every mechanic or other person who has bestowed money or skill and materials upon any chattel or thing in the alteration and improvement of its properties or for the purpose of imparting an additional value to it so as thereby to be entitled to a lien upon such chattel or thing for the amount or value of the money or skill and materials bestowed, shall, while such lien exists but not afterwards in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid, have the right in addition to all other remedies provided by law to sell the

chattel or thing in respect of which the lien exists on giving one month's notice by advertisement in a newspaper published in the locality in which the work was done, or in case there is no newspaper published in such locality or within ten miles of the place where the work was done, then by posting up not less than five notices in the most public places within the locality for one month, stating the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the residence or last known place of residence, if any, of the owner, as the case may be, or by mailing the same to him by registered letter if his address is known.

(a) Such mechanic or other person shall apply the proceeds of the sale in payment of the amount due to him and the costs of advertising and sale and shall upon application pay over any surplus to the person entitled thereto.

#### Forms.

32. The forms in the schedule hereto shall be deemed sufficient for the purposes specified in such schedule.

(Forms omitted.)

#### Miners' Liens.

Chapter 52.—1. This Ordinance may be cited as The Miners Lien Ordinance.

2. In this Ordinance:

(1) The expression "owner" extends to and includes a person having any estate or interest in the mine upon or in respect to which the work is done or wood placed or furnished, at whose request and upon whose credit or on whose behalf or consent, or for whose direct benefit any such work is done or wood placed, and all persons claiming under him whose rights are acquired after the work in respect to which a lien is claimed, is commenced or the wood furnished has been commenced to be furnished.

(2) The expression "layman" means any person other than the owner who is working said mine or a part thereof for an interest or share of the minerals or ore produced therefrom.

(3) The word "registering" or "registration" means the filing or depositing of an instrument with the Mining Inspector, or Gold Commissioner.

(4) The word "miner" means any person working upon a mine or in connection therewith.

#### Lien for Work or Wood.

3. Any person who performs any work or service upon or in respect to, or furnishes any wood to be used in the mining or working of any placer or quartz mining claim, or lands held under hydraulic mining lease, dredging lease or otherwise for mining, shall, by virtue thereof, have a lien for the price of such work or service or wood, upon the minerals or ore produced from said mining claim, lands held under hydraulic mining lease, dredging lease or otherwise for mining, upon or in respect to which such work or service is performed, as well as upon the dredges, drills, steam shovels, elevators, wood and all machinery and chattels, upon or used on such mining claim or lands held as aforesaid for mining; limited however in amount to the sum justly due to the person entitled to the lien.

(2) Such lien, upon registration as in this Ordinance provided, shall attach and take effect upon the date of the registration as against subsequent purchasers, mortgagees or other encumbrances whose mortgages or encumbrances are registered subsequent to the performance of such work or the furnishing of such wood.

4. The lien shall attach upon the estate or interest of the owner and all persons having any interest in the minerals or ore produced from said mining claim or lands held as aforesaid, dredges, steam-shovels, elevators, wood, machinery, and chattels upon or used on such mining claim or lands.

5. Any lien registered under the provisions of this Ordinance shall, as to an undivided one-half interest in the said minerals or ore, dredges, drills, steam shovels, elevators, wood, machinery and chattels, take priority over all mortgages and encumbrances against the same; provided, that a lien registered under this Ordinance shall not have priority over mortgages or encumbrances registered prior to the ninth day of June, 1910.

#### Registration of Lien.

6. A claim of lien may be deposited in the office of the Mining Recorder for the district in which the mine is situated and shall state:

(a) The name and residence of the claimant and of the owner of the property to be charged, and of the person for whom and upon whose credit the work is done or wood furnished, and the time or period within which the same was or was to be done or furnished.

(b) The work or wood furnished.

(c) The sum claimed as due or to become due.

- (d) The description of the property to be charged; and
- (e) The date of the expiring of the period of credit agreed to by the lien-holder for payment for his work or wood where credit has been given.
- (2) Such claims shall be verified by the affidavit of the claimant or his agent having a personal knowledge of the facts sworn to.
- 7. A claim may include the claims of any number of miners, labourers, or other persons aforesaid who may choose to unite them in such case; each claimant shall verify his claim by his affidavit but need not repeat the facts set out in the claim.
- 8. The claim may be registered at any time within thirty days after the last day's labour for which the wages are payable, or on which wood was furnished, or within thirty days after the time fixed for payment, or if the labour is performed or wood furnished between the first day of November in any year and the thirtieth day of April in the following year, at any time before the said thirtieth day of April.
- 9. The mining recorder in whose office the lien is deposited shall forthwith forward to the Gold Commissioner a copy of such lien certified by him to be a true copy and the Gold Commissioner shall enter a memorandum thereof against the claim described in said lien.
- 10. Every lien which has not been duly deposited under the provisions of this Ordinance shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof.

#### Proceedings to Realize Lien.

- 11. Every lien which has been duly deposited under the provisions of this Ordinance shall absolutely cease to exist after the expiration of sixty days after the registration of such lien unless in the meantime proceedings are instituted to realize the claim under the provisions of this Ordinance and a certificate thereof (which may be granted by the court in which, or judge before whom, the proceedings are instituted) is duly filed in the office of the Gold Commissioner.
- 12. Liens may be enforced by originating summons in which shall be set forth the grounds upon which such lien is claimed. Such summons shall be granted upon affidavit of the facts set forth in said summons.
- 13. Upon such summons being granted the court or judge may after notice given to the various parties interested, including the workmen on such claim, summarily determine and fix the liability of such owner or layman for wages due to the claimant and other workmen who have filed claims and also his liability to any other person who has filed a lien for wood supplied.
- 14. Any number of lien-holders may join in one summons and any action brought by a lien-holder shall be taken to be brought on behalf of all the lien-holders who shall have registered their liens before or within thirty days after the commencement of the action, or who shall within the said thirty days file in the proper office of the court from which the summons issued a statement of their respective claims intitled in or referring to the said action.
- (2) In the event of the death of the plaintiff or his refusal or neglect to proceed, any other lien-holder who has registered his claim or filed his statement in the manner and within the time above limited for that purpose may be allowed to prosecute and continue the action upon such terms as are considered just and reasonable by the court or judge;
- (3) If the minerals or ore produced from said mine are not sufficient to satisfy the liens registered against it, the court or a judge may direct a sale of the estate and interest charged with the lien, to take place at any time after one month from the recovery of judgment, and it shall not be necessary to delay the sale for a longer period thereafter than is requisite to give reasonable notice thereof;
- (4) The said court or judge may also direct the sale of any wood, machinery and chattels charged with the lien;
- (5) When judgment is given in favour of a lien-holder the court or judge may add to the judgment the costs of and incidental to registering the lien as well as the costs of the action;
- (6) Upon application the court or judge may receive security or payment into court in lieu of the amount of the claim, and may thereupon vacate the registration of the lien;
- (7) The court or judge may annul the said registration upon any other ground;
- (8) In any case the court or judge may proceed to hear and determine the matter of the said lien and make such order as is just, and in case the person claiming to be entitled to such lien has wrongfully refused to give a discharge thereof or without just cause has filed said lien or claims a larger sum than is found by such court or judge to be due, the court or judge may order and adjudge him to pay the costs of the other party.

#### Death of Lien-holder.

- 15. In the event of the death of a lien-holder his right of lien shall pass to his personal representatives and the right of a lien-holder may be assigned by any instrument in writing.

### Discharge of Lien.

16. A lien may be discharged by a receipt signed by the claimant or his agent and verified by affidavit and filed; such receipt shall be numbered and entered like other instruments, but need not be copied in any book.

### Fees.

17. The fee for registering any instrument under this Ordinance shall be \$2.

### Encumbered Mines.

18. Every owner or layman, or if such owner or layman is an incorporated company, or is absent from the Territory, the manager or agent of such owner or layman, who hires any person to perform any work or service upon or in respect to or to place or furnish any wood to be used in the working of any mine which was encumbered prior to the passing of this Ordinance, shall immediately upon such hiring give notice in writing to every person holding any encumbrance upon such mine of the fact of such hiring. Such notice may be in form A of the schedule to this Ordinance.

(2) Any person so hired may at any time give similar notice to every encumbrance of such mine in form B of said schedule.

19. Any person failing to give such notice who fails to pay any such person hired by him as in the next preceding section mentioned the full amount of wages due such person, shall be liable to a penalty not exceeding two hundred and fifty dollars and in default of payment of such penalty and the wages due such person to imprisonment for a term not exceeding three months unless he sooner pay such penalty and all wages due such person unpaid in respect to such claim.

20. In every case where such notice has been given the claim of every person so hired for wages due in respect of such hiring shall be a first lien on one-half of the output of such mine unless the encumbrancee has, by notice in writing posted conspicuously on such mine or given personally to every person so hired, forbidden every such person to perform work or service upon or in respect to or to place or furnish wood to be used in the working of such mine.

21. After a lien has been registered by any person so hired for money due him in respect of such hiring, against any placer mine, it shall not be lawful for the owner or layman to remove any gold from such mine, if the majority of the workmen to whom wages are due for working such mine give him a written notice in form C in the schedule to this Ordinance. After such notice is given any person interested in such mine either on account of wages due him for working in such mine or as owner, layman or encumbrancee, may notify the mining inspector residing nearest to such mine that a lien has been registered against such mine, and that a majority of the workmen to whom wages are due for working in such mine have forbidden the removal of any gold therefrom, and upon receipt of such notice the said mining inspector shall forthwith by himself or his agent take possession of every dump, sluice box and all gold dust produced from such mine, and make provision for obtaining the gold therefrom at the expense of the owner or layman, and apportioning so much of such gold dust as is necessary to pay every such person not exceeding in the whole one-half of the gold produced from such mine, if the same was encumbered prior to the registration of such lien and paying the proper portion to every such person, and the balance to the owner of the mine or the encumbrancee.

(2) If there is any dispute as to the amount of wages due any workman in such mine, the said mining inspector shall deposit with the clerk of the Territorial Court, the gold dust produced from such mine to abide the decision of a judge upon any action to enforce such lien.

22. At every clean-up on any placer mine the men so hired shall be entitled to have a representative present thereat, and at the weighing of the gold dust obtained thereby, and it shall be the duty of such owner or layman to give to such representative, if required, a statement in writing of the quantity of gold obtained from time to time from every such mine.

23. Any owner or layman who violates any of the provisions of the next preceding section and fails to pay to every such person so hired the amount due to such person in respect of such hiring, shall be liable to a penalty not exceeding \$250 and in default of payment of such penalty and the wages due by him, to imprisonment for a term not exceeding three months, unless he sooner pay such penalty and the amount due and unpaid in respect to such wages.

### Forms.

24. The forms prescribed in the Mechanics Lien Ordinance may be used in all proceedings under the Miners Lien Ordinance.

(Forms omitted.)

**Woodmen's Liens.**

Chapter 53.—1. This Ordinance may be cited as the Woodman's Lien Ordinance.

2. Where the words following occur in this Ordinance, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:

(1) The words "logs" or "timber" shall mean and include logs, timber, piles, posts, telegraph and telephone poles, ties, nining props, shingle bolts, staves, fire wood or any of them;

(2) The words "labour," "service," or "services" shall mean and include cutting, skidding, felling, hauling, scaling, banking, piling, driving, running, rafting, or booming any logs or timber, and any work done by cooks, blacksmiths, artisans, and others usually employed in connection therewith;

(3) The word "person" in section 3 of this Ordinance shall be interpreted to include cooks, blacksmiths, artisans and all others usually employed in connection with such labour and services.

(3) Any person performing any labour, service or services in connection with any logs or timber in the Yukon Territory shall have a lien thereon for the amount due for such labour, service or services, and the same shall be deemed a first lien or charge on such logs or timber, and shall have precedence of all other claims or liens thereon, except any lien or claim which the Crown may have upon such logs or timber for or in respect of any dues or charges, or which any timber slide company, or owner of slides and booms, may have thereon for or in respect of tolls.

4. The lien provided for in section 3 shall not attach or remain a charge on the logs or timber unless and until a statement thereof in writing, verified upon oath by the person claiming such lien or some one authorized on his behalf, shall be filed in the office of the clerk of the Territorial Court of the Yukon Territory.

5. Such statement shall set out briefly the nature of the debt, demand or claim, the amount due to the claimant, as near as may be, over and above all legal claims by way of set-offs or counter claims, and a description of the logs or timber upon or against which the lien is claimed, and shall be set in the form set out in the schedule to this Ordinance or to the like effect.

6. Such statement shall be filed thirty days after the last day such labour or services were performed; provided that no sale or transfer of the logs or timber upon which a lien is claimed under this Ordinance during the time limited for the filing of such statement of claim, and previous to the filing thereof, or after filing thereof and during the time limited for the enforcement thereof, shall in anywise affect such lien, but such lien shall remain and be in force against such logs or timber in whosoever possession the same shall be found, except sawn timber sold in the ordinary course of business.

7. Any person or persons having a lien upon or against any logs or timber may enforce the same by suit in the Territorial Court of the Yukon Territory; and such lien claim shall cease to be a lien upon the property named in such statement unless the proceedings to enforce the same be commenced within thirty days after the filing of the statement of claim or after the expiry of the period of credit. In all such suits the person, company or corporation liable for the payment of such debt or claim shall be made the party defendant.

(2) There shall be attached to or endorsed upon such writ of summons a copy of the statement of claim filed as hereinbefore provided; and no other statement of claim shall be necessary unless ordered by the court or judge, and no pleadings or notice of dispute or defence, other than such as are required in a suit or proceeding in the said court, shall be necessary. In case no defence is filed, judgment may be signed and execution issued, according to the practice of the said court.

8. The court or judge may order any particulars to be given or any proper or necessary amendments to be made, or may add or strike out the names of parties at any time, and may set aside judgment and permit a defence to be entered or filed, on such terms as to the court or judge shall appear proper. The writ shall be in the form as near as may be of that in use in the Territorial Court of the Yukon Territory, and the practice thereafter shall follow as nearly as may be that of the said court. Writs may be served anywhere in the Territory in the same manner as in other cases, and the judgment shall declare that the same is for wages, the amount thereof and costs, and that the plaintiff has a lien therefor on the property described when such is the case.

9. Where an execution has been issued and has been placed in the sheriff's hands for execution, and no attachment has been issued, the proceedings for the enforcement of the lien shall be by sale under the execution; and the proceedings relating to proof of other claims, and the payment of money into court and the distribution of the moneys and otherwise, shall, as far as practicable, be the same as hereinbefore provided for the proceedings upon and subsequent to an attachment.

10. Where an attachment issues in the first instance, the statement of claim and defence, and proceedings to judgment, may be the same, as hereinbefore provided; where a suit has been begun by writ of summons, and where an attachment issues

after proceedings have been begun by writ of summons, the proceedings shall continue and be carried to judgment under the writ of summons, except such as are necessary to be taken under the attachment.

11. The form of writ of attachment shall be as nearly as may be the same as is in use in the Territorial Court of the Yukon Territory. The judge of the Territorial Court of the Yukon Territory may prepare and adopt rules and forms not inconsistent with the provisions of this Ordinance for the more convenient carrying out in the said court the provisions of this Ordinance.

12. The judge may direct that any case shall be disposed of summarily by him in chambers without waiting for the regular sittings of the court, upon such terms as to notice and otherwise as the order shall provide, and the same may be so heard and disposed of.

(2) The judge may also entertain in chambers any application to set aside a writ of summons or of an attachment or seizure, or to release logs or timber that have been seized, and may summarily dispose of the same.

13. Upon the production and filing of a copy of such claim and affidavit, and upon the filing of an affidavit made and sworn by the claimant of the amount of the claim due and owing, and showing that the same has been filed as aforesaid, and stating that:—

(a) He has good reason to believe, and does believe, that the logs or timber are about being removed out of the Yukon Territory; or

(b) That the person indebted for the amount of such lien has absconded or is about to abscond from the said Territory with intent to defraud or defeat his creditors; or

(c) That the logs or timber are about being cut into lumber or timber or otherwise dealt with so that the same cannot be identified;

(d) And that he is in danger of losing his claim if an attachment do not issue, and if affidavits corroborating the affidavit of the plaintiff in respect of paragraphs (a), (b), or (c) be also filed, then the clerk of the Territorial Court of the Yukon Territory shall issue a writ of attachment directed to the sheriff of the Yukon Territory, commanding him to attach, seize and take and safely keep the said logs or timber, or such portion of them as may be necessary to satisfy the amount claimed, and the costs of the suit, and of proceedings to enforce the lien.

(2) Where additional claims are made, or the amount of claim is increased, or a sufficient seizure has not been made, a second or subsequent seizure may be made either under execution or attachment.

14. The plaintiff may, at any time within six months from the date of the original writ of attachment, issue from the office whence the original writ issued, one or more concurrent writ or writs of attachment, to bear test on the same day as the original writ, and to be marked by the officer issuing the same with the word "concurrent" in the margin, which concurrent writ or writs of attachment shall be directed to the sheriff of the Yukon Territory, and need not be sued out in duplicate, or be served on the defendant, but shall operate merely for the attachment of the said logs or timber in aid of the original writ.

15. The writ of attachment shall, if no writ or summons has issued, summon the defendant to appear before the court out of which the writ of attachment has issued, and a copy of the writ of attachment shall be served upon the defendant, and if the defendant in such attachment is not the owner of the logs or timber described in the writ, then a copy of the writ shall also be served upon the owner of the said logs or timber or upon the person or agent in whose possession, custody or control they may be found, for him;

(2) In case the defendant or owner cannot be found within the Territory, or the owner cannot be ascertained, and no agent or person is in possession for the owner, the writ may be served in such manner as the judge shall by order direct, but when the writ is served upon an agent or other person in possession as aforesaid, the order of the judge allowing the said service shall be necessary.

(3) Where the service has not been personal upon either the defendant or owner, and where a proper defence has not been made, the judge may, in his discretion, admit them or either of them to make full defence, and may make such order in the premises as may be reasonable and just to all parties.

16. No sheriff or his agent shall seize or detain any logs or timber under the provisions of this Ordinance when in transit from the place where cut to the place of destination when such place of destination is within the Yukon Territory, but in case such logs or timber are so in transit or are in the possession of any booming company or other corporation or person, for the purpose of being driven or sorted or delivered to the owners, or to satisfy any statutory lien, then attachment of said logs or timber may be made by serving a copy of said attachment upon the person or corporation driving or holding the same, who shall from the time of such service, be deemed to hold the same, both on their own behalf and for the said sheriff to the extent of the lien, until the logs or timber can be driven and sorted out; and when driven or sorted out, the sheriff may receive the said logs or timber from such person or corporation, and the statutory lien

of such person or corporation shall not be released by the holding of such sheriff or his agents.

17. In case of an attachment, if the owner of said logs or timber, or any person in his behalf, shall execute and file with the clerk of the court out of which the attachment has issued, a good and sufficient bond to the person claiming the lien, executed by two sureties and approved by the said clerk, and conditioned for the payment of all claims, damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings, together with the amount for which a lien is claimed in any other suit, by the same or other party, if any, the clerk shall issue an order to the sheriff having in charge the logs or timber, directing their release, and upon service of such order upon the sheriff, he shall release the same.

18. Any person who shall have been served with a copy of the Writ of Attachment under the preceding sections and who may desire to dispute the same, shall within fourteen days after such service, file in the court in which proceedings are pending, a notice that he or they dispute the claim upon the lien in whole or part.

19. If no notice of dispute be filed under the preceding section, judgment may be entered as in the case of default, and the practice or procedure shall be the same as in a suit begun by writ of summons.

20. The defendant may at any time after service of the writ of summons or attachment, and before the sale of the logs or timber, pay into court the amount for which a lien is claimed in the suit, together with the amount for which a lien is claimed in any other suit if any, together with costs of the proceedings thereon to the date of such payment, taxed by the clerk of the court if so required, and the person making such payment shall thereupon be entitled to a certificate vacating the said lien, and upon said certificate being filed with the clerk of the court in which the original statement of claim was filed, the said lien shall be vacated and all further proceedings thereon shall cease, and the person making such payment shall further be entitled to an order directing the delivery up of the logs or timber seized under the attachment and the cancellation of any bond given under section 17 of this Ordinance.

21. After the expiration of the time hereinbefore named within which notice of dispute may be filed, the judge may, upon application of the claimant, issue an appointment naming a day upon which all persons claiming a lien on the logs or timber shall appear before the judge in person, or by their solicitor, or agent, for the adjustment of their claims and the settlement of accounts, and the said appointment shall be served upon the defendant and upon the owner, if the judge so directs, and shall also, if the judge so directs, be published once a week for two weeks, before the day named in said appointment, in a newspaper published in the Yukon Territory.

(2) Provided further, that a copy of such appointment shall be mailed by registered letter to every holder of a claim known to the plaintiff as such holder at least two weeks before the day named in the appointment, directed to the post office address of such claimant where the same is known, and if not known, then to his last known address.

22. Upon the day named in said appointment and advertisement, the persons served with a copy thereof, and all other persons claiming a lien on said logs or timber, who have prior to the said date filed with the clerk of the proper court a notice claiming such lien on said logs or timber and stating the nature and amount of such claim, shall attend before the judge named in the appointment and advertisement.

(2) Where claims are brought pursuant to notice they may be established *prima facie* by affidavit, but any party interested shall be at liberty to cross-examine the deponents, and the judge may require that the claim be established in open court as in other cases.

23. The judge shall hear all parties and take all accounts necessary to determine the amounts, if any, due to them or any of them, or to any other holders of liens who may be called by the judge to prove their lien, and shall tax to them their costs, and determine by whom the same shall be payable, and settle their priorities and generally determine all such matters as may be necessary for the adjustment of the rights of the several parties.

24. At the conclusion of the inquiry the judge may allow time not exceeding ten days for the payment into the court in which proceedings are pending of the amounts, if any so found due, and the costs, and shall direct that in default of such payment, the logs or timber shall be sold by the sheriff for the satisfaction of the amounts found due to the several parties upon the inquiry and costs.

25. In default of payment into court under the next preceding section within the time named in the order therefor, the said logs or timber shall, within twenty days thereafter, be sold by the sheriff holding the same, in the same manner and subject to the same provisions of law as goods seized or taken in execution, unless the judge shall direct that additional publicity shall be given to the sale, and the amount realized by such sale shall after deducting the expenses thereof payable to the sheriff be paid into the court in which the proceedings are pending, and shall upon the application of the several parties found to be entitled thereto under the order of the judge, be paid forthwith out to them by the clerk of the said court.



(2) Provided, where the amount realized upon the sale is not sufficient to pay the claims in full and costs, the judge shall apportion the amount realized *pro rata* among the different claimants.

26. If, after such sale and the distribution of the proceeds thereof under the next preceding section, any balance shall remain due to any person under the said order of the judge, the clerk of the court shall, upon application of such person, give to him a certificate that such amount remains due, which certificate may be entered as a judgment in any court having jurisdiction against the person or persons by whom the claim was directed to be paid, and execution may be issued thereupon as in the case of other judgments in said court.

27. Where nothing shall be found due upon the several claims filed in any proceedings under this Ordinance, or upon the lien or liens with respect to which proceedings have been taken, the judge may direct that the lien or liens be discharged and the logs or timber released, or security given therefor delivered up and cancelled, and shall also by such order direct payment forthwith of any costs which may be found due to the defendant or the owner of the said logs or timber.

28. The costs to be taxed to any party shall, as far as possible, be according to the tariff of costs in force as to other proceedings in the Territorial Court of the Yukon Territory.

29. Where more money shall be paid into the court as the proceeds of the sale of logs or timber than shall be required to satisfy the liens which shall be proved, and interest and costs, the judge may order the payment out of court of any remaining moneys to the party entitled to the same.

30. Any person affected by proceedings taken under this Ordinance may apply to the judge to dismiss the same for want of due prosecution, and the judge may make such order upon the application as to costs or otherwise as may be just.

(2) The judge may at any stage of any proceedings, on the application of any party, or as he may see fit, order that any person who may be deemed a necessary party to any such proceedings be added as a party thereto or be served with any process or notice provided for by this Ordinance, and the judge may make such order as to the costs of adding such person or corporation or as to such service as may be just.

31. Nothing in this Ordinance contained shall be deemed to disentitle any person to any other remedy than that afforded by this Ordinance for the recovery of any amount due in respect of labour or services performed upon or in connection with any logs or timber, and where a suit is brought to enforce a lien, but no lien shall be found due, judgment may be directed for the amount found due as in an ordinary case.

32. Any number of lien-holders may join in taking proceedings under this Ordinance, or may assign their claims to any one or more persons, but the statement of claim to be filed under this Ordinance shall include particular statements of the several claims of persons so joining, and shall be verified by the affidavits of such persons so joining, or separate statements of claim may be filed and verified as by this Ordinance provided, and on writ of attachment issued on behalf of all persons so joining.

33. If more than one suit be commenced under the provisions of this Ordinance in respect of the same logs, the defendants, or any of them, may apply to have the suits consolidated, and failing to do so, he or they shall pay the costs of such additional suit or suits as may be decided against them.

34. The procedure regulating the practice in actions brought in the Territorial Court of the Yukon Territory shall, so far as is not inconsistent with this Ordinance, regulate proceedings under this Ordinance.

35. Affidavits and affirmations under this Ordinance may be sworn before any judge, police magistrate, stipendiary magistrate, notary public, or justice of the peace, or before any commissioner authorized to take affidavits to be read in the Territorial Court.

(Schedule omitted.)

#### Employment of Women and Minors in Bar Rooms.

Chapter 56.—72. Any hotel licensee who knowingly allows any male under the age of eighteen years, or any female to dispose of any form of intoxicating liquor on the premises for which such license is granted shall be liable to all the penalties provided in the next preceding section. Provided that this shall not apply to female licensees or the wife of a licensee.

#### Employment of Labour—General Provisions.

Chapter 62.—1. Every contract or hire of personal service shall be subject to the provisions of this Ordinance and if such contract is for any period more than one year it shall be in writing and signed by the contracting parties.

2. Any person engaged, bound or hired whether as clerk, journeyman, apprentice, servant, labourer or otherwise howsoever, guilty of drunkenness or of absenting himself by day or night without leave from his proper service or employment or of refusing or neglecting to perform his just duties or to obey the lawful commands of his master or of dissipating his employer's property or effects shall be deemed guilty of a violation of his contract and upon summary conviction of one or more of the said violations, forfeit and pay such sum of money not exceeding \$30 as to the justice seems meet together with costs of prosecution and in default of payment thereof forthwith shall be imprisoned for any period not exceeding one month.

3. Any justice, upon oath of an employee, servant or labourer complaining against his or her master or employer concerning any non-payment of wages (not exceeding six months wages, the same having been first demanded) ill-usage or improper dismissal by such master or employer, may summon the master or employer to appear before him at a reasonable time to be stated in the summons and the justice shall upon proof of oath of the personal service of the summons examine into the matter of the complaint, whether the master or employer appears or not, and upon due proof of the cause of the complaint the justice may discharge the servant or labourer from the service or employment of the master and direct the payment to him or her of any wages found to be due (not exceeding six months wages as aforesaid) and the justice shall make such order for payment of the said wages as to him seems just and reasonable with costs.

4. Proceedings may be taken under this Ordinance within three months after the engagement or employment has ceased or within three months after the last instalment of wages under the agreement of hiring has become due whichever shall last happen.

5. The provisions of this Ordinance shall be held to apply in the Territory to contracts and agreements made at any place outside the same.

6. Nothing in this Ordinance shall in any wise curtail, abridge or defeat any civil or other remedy for the recovery of wages or damages which employers or masters may have against servants or employees or which servants or employees may have against their masters or employers.

7. Notwithstanding any provisions to the contrary of any law or Ordinance in force in this Territory, whenever any proceedings are taken before one or more justices of the peace under section 4, of this Ordinance, no warrant for the imprisonment of any master or employer for non-payment of wages shall be issued, unless it is established before the justice or justices, trying the case, that said master or employer has committed some act of fraud tending to deprive his creditors generally, or the complainant in particular of his recourse against him, or that he is about to leave the Yukon Territory with the same intent.

### Inspection and Regulation of Mines.

Chapter 65.—1. This Ordinance may be cited as The Miners' Protection Ordinance.

#### Application.

2. This Ordinance shall apply to every mine of whatever description within the Yukon Territory.

#### Interpretation.

3. In this Ordinance and in any special rules made under the provisions of this Ordinance, unless the context otherwise requires:—

(1) "Mine" includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven for commencing or opening any such mine, or for searching for or proving minerals, and all the shafts, levels, planes, works, machinery, tramways, railways and sidings both below and above ground, in and adjacent to a mine, and any such shaft, level, and inclined plane of and belonging to the mine;

(2) "Shaft" includes pit and slope;

(3) "Inclined plane" includes slope;

(4) "Plan" includes a map and section or sections, and a correct copy or tracing of any original plan as so defined;

(5) "Owner" in relation to any mine means any person or body corporate who is the immediate proprietor, or lessee, or occupier of any mine, or of any part thereof, and does not include a person or body corporate who merely receives a royalty or rent from a mine, or is merely the proprietor of a mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine, but any contractor for the working of any mine or any part thereof shall be subject to this Ordinance in like manner as if he was an owner, but so as not to exempt the owner from any liability;

(6) "Agent" in relation to any mine means any person having on behalf of the owner, care or direction of any mine or any part thereof.

Officers.

4. The Commissioner may from time to time appoint suitable, competent, practical persons to act as inspectors under this Ordinance and may define the limits of the district within which each such inspector may perform his duties and exercise his powers.

Duties of Inspector.

5. It shall be the duty of every inspector:—

(1) To visit and inspect from time to time every mine within the district for which he is inspector.

(2) To ascertain that the provisions of this Ordinance and of any special rules made thereunder are complied with and that the mines are worked with due regard to the safety and protection of the persons employed therein.

(3) To investigate every case where

(a) Loss of life or any personal injury to any person employed in or about any mine in such district occurs by reason of any explosion of gas, powder or other explosive or of any steam boiler; or

(b) Loss of life or any serious personal injury to any person employed in or about any such mine occurs by reason of any accident whatever.

(4) To report to the Commissioner all information in regard to any such case and to notify the public administrator of every case of loss of life with all particulars in regard thereto.

Inspection.

6. The inspector shall have power to do all or any of the following things, namely:—

(1) To make such examination and inquiry as is necessary to ascertain whether the provisions of this Ordinance relating to matters above ground or below ground are complied with in the case of any mine;

(2) To enter, inspect and examine any mine and every part thereof at all reasonable times by day and night, but so as not to impede or obstruct the working of the mine;

(3) To examine into and make inquiry respecting the state and condition of any mine or any part thereof, and the ventilation of the mine, and the sufficiency of any special rules for the time being in force in the mine and all matters and things connected with or relating to the safety of the persons employed in or about the mine or any mine contiguous thereto;

(4) To exercise such powers as are necessary for carrying this Ordinance into effect.

(5) Every person who wilfully obstructs the inspector in the execution of his duty under this Ordinance, and every owner, agent and manager of a mine who refuses or neglects to furnish to the inspector the means necessary for making an entry, inspection, examination or inquiry under this Ordinance in relation to such mine, shall be guilty of an offence against this Ordinance.

7. If in any respect (which is not provided against by any excess provision of this Ordinance, or by any special rule) the inspector finds any mine, or any part thereof, or any matter, thing or practice in or connected with any mine, to be dangerous or defective, so as in his opinion to threaten or tend to the bodily injury of any person, the inspector may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in such notice the particulars in which he considers such mine or any part thereof, or any matter, thing or practice, to be dangerous or defective, and require the same to be remedied; and unless the same is forthwith remedied the inspector shall report the same to the Commissioner.

(2) If the owner, agent or manager fails to comply with the requisition of the notice within ten days from the date of such notice he shall be guilty of an offence against this Ordinance.

(3) The Commissioner, if satisfied that the owner, agent or manager has taken active measures for complying with the notice but has not with reasonable diligence been able to complete the works, may adjourn any proceedings taken before him for punishing the offence, and if the works are completed within a reasonable time no penalty shall be inflicted.

(4) No person shall be precluded by any agreement from doing such acts as are necessary to comply with the provisions of this section, or be liable under any contract to any penalty or for forfeiture for doing such acts.

8. Where it appears to the Commissioner that a formal investigation of any accident in any mine or of any matter connected with the working of any mine is expedient, the Commissioner may direct the inspector to hold such investigation, and with respect to any such investigation the following provisions shall have effect:

(1) The inspector shall make such investigation in such manner and under such conditions as he thinks most effectual for the making of a full investigation.

(2) The inspector for the purposes of the investigation shall have all the powers of a commissioner appointed under chapter 45 of the Consolidated Ordinances of the

Yukon Territory, and all the powers conferred upon the inspector by this Ordinance and as part thereof in addition thereto the following powers, viz.:—

(a) Power to enter and inspect any mine, building or place, the entry or inspection of which appears to the inspector expedient;

(b) Power by summons signed by the inspector to require the attendance of any person and to require of such person such answers or returns to inquiries as the inspector thinks fit;

(c) Power to require the production of any book, paper or document which the inspector thinks important upon such investigation;

(d) Power to administer an oath.

(3) Any person attending before the inspector in obedience to any such summons shall be allowed the fee paid to a witness attending a trial in the Territorial Court.

(4) Any person who without reasonable excuse either fails to comply with any summons requiring him to attend before the inspector upon any such investigation or refuses to produce any document which he is required by the inspector to produce, or prevents or impedes the inspector when engaged in such investigation, shall for each offence be liable to a penalty not exceeding four hundred dollars or to imprisonment for a term not exceeding thirty days, and in addition thereto, may be proceeded against in the Territorial Court as for contempt of such court.

(5) The inspector shall make a report of such investigation which the Commissioner shall cause to be made public at such time and in such manner as he thinks fit.

(6) Any expense incurred in and about any such investigation shall be paid out of the general revenue fund.

#### Coroners' Inquests.

9. With respect to coroners' inquests on the bodies of persons whose death may have been caused by explosions or accidents in mines, the following provisions shall have effect:

(1) When a coroner holds an inquest on the body of any person whose death may have been caused by an explosion or accident, of which notice is required by this Ordinance to be given to the Commissioner or inspector, the coroner, whenever practicable shall immediately notify the inspector for the district of his intention to hold such inquest and in the absence, non-arrival or non-attendance of the inspector, the coroner shall adjourn such inquest whenever practicable to enable the inspector or some other properly qualified person appointed by the Commissioner to be present to watch the proceedings.

(2) The coroner at least four days before holding the adjourned inquest shall send to the commissioner or to the inspector for the district notice in writing of the time and place of holding such adjourned inquest.

(3) The coroner before the adjournment may take evidence to identify the body and may order the internment thereof.

(4) The inspector or such other person so appointed, and a person appointed by the workmen of the mine at which the explosion or accident occurred shall be at liberty at any such inquest to examine any witnesses subject nevertheless, to order of the coroner.

(5) Where evidence is given at an inquest at which the inspector or such other person so appointed is not present, of any neglect as having caused or contributed to the explosion or accident, or of any defect in or about the mine appearing to the coroner or jury, to require a remedy, the coroner shall send to the inspector notice in writing of such neglect or defect.

(6) Any person having a personal interest in, or employed in, or in the management of the mine in which the explosion or accident occurred, or any relative of the deceased person upon whose body the inquest is to be held, shall not be qualified to serve on the jury empanelled on the inquest, or to act as coroner therein, and it shall be the duty of the constable or other officer not to summon any person disqualified under the provision, and it shall be the duty of the coroner not to allow any such person to be sworn or to sit on the jury.

(7) If, in the opinion of the inspector, it will lead to a more thorough investigation, and will be more conducive to the ends of justice, he may require the constable or other officer to summon as jurymen not more than three working men employed at any other mine than that at which the explosion or accident occurred, who shall form part of the jury sworn in such inquest.

(8) Every person who fails to comply with the provisions of this section shall be guilty of an offence against this Ordinance.

#### Employment of Boys.

10. No boy of or above the age of twelve years, and under the age of sixteen years shall be employed either about or allowed to be for the purpose of employment in or about any mine below or above ground for more than forty-eight hours in any one week, or for more than eight hours in any one day except in case of accident or emergency.

(2) For the purposes of this section a week shall be deemed to begin at midnight on Saturday night and to end at midnight on the succeeding Saturday night.

(3) No boy of or above the age of twelve years and under the age of sixteen years shall be permitted to work in or about any mine below or above ground unless he is able to read and write and is familiar with the rules of arithmetic as far as, and including division, and furnishes a certificate to that effect from a duly licensed teacher or from the inspector of the district in which he is employed.

(4) Every such teacher and every such inspector shall without requiring payment of any fee, upon the application of any boy desiring employment, make the necessary examination of the boy and grant him such certificate, if he is found to be entitled to the same, and any such teacher or inspector refusing to make such examination and grant such certificate shall be liable to a penalty not exceeding twenty dollars.

#### Payment of Wages.

11. No wages shall be paid to any person employed in or about any mine at or within any public house, road house or place for the sale of any spirits, beer, wine or other spirituous or fermented liquors.

12. Every person who contravenes or permits any persons to contravene the provision of the next preceding section shall be guilty of an offence against this Ordinance, and in the event of any such contravention by any person whomsoever the owner, agent and manager shall each be guilty of an offence against this Ordinance unless he proves that he had taken all reasonable means to prevent such contravention.

#### Shafts.

13. The owner, agent or manager of a mine shall not employ any person in the mine or permit any person to be in the mine for the purpose of employment therein unless the following conditions respecting shafts or outlets are complied with; that is to say:

(1) Proper apparatus for raising and lowering persons at every shaft or outlet shall be kept on the works belonging to the mine, and such apparatus if not in actual use at the shafts or outlets shall be constantly available for use. All buckets, tubs and other vessels in which goods and materials and other things are lowered into or raised from the mine shall be safely attached to the rope, cable or other means by which the same are lowered or raised so as to obviate all danger to persons beneath the same.

(2) Every owner, agent or manager who acts in contravention of or fails to comply with this section shall be guilty of an offence against this Ordinance.

(3) The Territorial Court or any judge thereof whether any other proceedings have been taken or not, may upon the application of the Crown Prosecutor prohibit by injunction the working of any mine in which any person is employed or is permitted to be for the purpose of employment in contravention of this section or of any other section of this Ordinance, and may award such costs in the matter of the injunction as the court or judge thinks just; but this provision shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this Ordinance.

(4) Written notice of the intention to apply for such injunction in respect to any mine shall be given to the owner, agent or manager of the mine not less than two days before the application is made.

(5) No person shall be precluded by any agreement from doing such acts as are necessary to comply with the provisions of this Ordinance or be liable under any contract to any penalty or forfeiture for doing such acts as are necessary in order to comply with the provisions of this Ordinance.

14. When in or about any mine whether above or below ground either,

(a) Loss of life or any personal injury to any person employed in or about the mine occurs by reason of the explosion of gas, powder or other explosive, or of any steam boiler; or

(b) Loss of life or any serious personal injury to any person employed in or about the mine occurs by reason of any accident whatever, the owner, agent or manager of the mine shall within twenty-four hours next after the explosion or accident send notice in writing of the explosion or accident, and of the loss of life or personal injury occasioned thereby to the Commissioner and to the inspector for the district, and shall specify in such notice the character of the explosion or accident, and the number of persons killed or injured, and as soon after as possible, and before the end of each year a return of facts relating to such accident or explosion in the form given in the schedule to this Ordinance.

(2) Where any personal injury of which notice is required to be sent under this section results in the death of the person injured, notice in writing of the death shall be sent to the Commissioner and to the inspector for the district within twenty-four hours after such death comes to the knowledge of the owner, agent or manager.

(3) Every owner, agent or manager who fails to act in compliance with this section shall be guilty of an offence against this Ordinance.

15. In any case,—

(1) Wherever any change occurs in the name of the owner, agent or manager of any mine or in the offices of any incorporated company which is the owner of any such mine; or

(2) Where any working is commenced for the purpose of opening any such mine; or

(3) Where any mine is abandoned or the working thereof discontinued; or

(4) Where the working of a mine is recommenced after an abandonment or discontinuance for a period exceeding two months, the owner, agent or manager of such mine shall give notice thereof to the Commissioner within two months after such commencement, abandonment, discontinuance, recommencement or change; and if such notice is not given, the owner, agent or manager shall be guilty of an offence against this Ordinance, provided that this section shall not apply to placer mines.

#### Abandoned Mines.

16. Where any mine is abandoned or the working thereof discontinued, at whatever time such abandonment or discontinuance occurs the owner thereof and every other person interested in the mineral of such mine shall cause the top of the shaft and any side entrance from the surface to be and to be kept securely fenced for the prevention of accidents.

Provided that:

(1) Subject to any contract to the contrary, the owner of the mine shall, as between himself and any other person interested in the minerals of the mine be liable to carry into effect this section and to pay the costs incurred by any other person interested in the minerals of the mine in carrying this section into effect; and

(2) Nothing in this section shall exempt any person from any liability under any other Ordinance, act, law, or otherwise;

(3) If any person fails to act in conformity with this section he shall be guilty of an offence against this Ordinance.

#### GENERAL RULES.

17. The following general rules shall be observed as far as is reasonably practicable, in every mine:—

##### Rule 1.

An adequate amount of ventilation shall be constantly produced in every mine to dilute and render harmless noxious gases to such an extent that the working places of the shaft levels and workings of the mine shall be in a fit state for working and passing therein.

##### Rule 2.

All entrances to any place in a mine not in actual course of working and extension shall be properly fenced across the whole width of such entrance so as to prevent persons inadvertently entering the same.

##### Rule 3.

If at any time it is found by the person for the time being in charge of the mine or any part thereof that by reason of noxious gases prevailing in such mine or such part thereof, or of any cause whatever, the mine or the said part is dangerous, every workman shall be withdrawn from the mine or such part thereof as is so found dangerous, and no workman shall, except in so far as is necessary for inquiring into the cause of danger or for the removal thereof or for the exploration, be readmitted into the mine or such part thereof as is so found dangerous until the same is made safe.

##### Rule 4.

The following provisions shall relate to the use of any explosive in a mine:—

(a) It shall not be stored in a mine;

(b) It shall not be taken into a mine except in a secure case or canister containing not more than six pounds;

(c) A workman shall not have or use at any one time in any one place more than one of such cases or canisters.

##### Rule 5.

Every underground plane on which persons travel where the produce of the mine is carried by cars which are self-acting or worked by an engine, windlass or gin, shall be provided (if exceeding thirty yards in length) with some proper means of communicating distinct and definite signals between the stopping places and the ends of the plane and shall be provided in every case at intervals of not more than twenty yards with sufficient manholes for places of refuge, and every back or counter balance used for raising or lowering minerals, if exceeding thirty yards in length, unless exempted in writing by the inspector, shall be provided with some proper means of communicating distinct signals between the lower end and between the entrance of every working place thereon for the time being in work and the upper end thereof.

## Rule 6.

Every road on which persons travel underground where the produce of the mine in transit exceeds ten tons in any one hour over any part thereof, and where the load is drawn by a horse or other animal, shall be provided, where there is not standing room of at least two feet, at intervals of not more than twenty-five yards, with sufficient manholes or with places of refuge, and every such place of refuge shall be of sufficient length and of at least three feet in width between the wagons running on the tram road and the side of such road;

(a) Where the load is drawn by machinery or other mechanical appliances and there is not standing room of at least two feet, there shall be provided at intervals of not more than fifteen yards, sufficient manholes or places of refuge, and every such place of refuge shall be of sufficient length and of at least three feet in width between the wagons running on the tram road and the side of such road;

(b) Whenever in the opinion of the inspector the precautions required by this rule with respect to roads over which the produce of the mine is drawn by machinery or other mechanical appliances are not sufficient for the safety of the men travelling thereon, he may require the owner, agent or manager of such mine to provide a separate travelling road.

## Rule 7.

Every manhole and every place of refuge shall be kept clear, and no person shall place anything in a manhole or place of refuge so as to prevent access thereto.

## Rule 8.

The top of every shaft which for the time being is out of use or used only as an air shaft shall be kept securely fenced.

## Rule 9.

Where the natural strata are not safe every working or pumping shaft shall be securely cased, lined or otherwise made secure.

## Rule 10.

The roof and sides of every travelling road and working place shall be made secure and a person shall not unless appointed for the purpose of exploring or repairing travel or work in any such travelling road or working place unless the same is so made secure.

## Rule 11.

Every working shaft used for the purpose of drawing minerals or for the lowering or raising of persons shall if exceeding fifty yards in depth and not exempted in writing by the inspector, be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft, and from every entrance for the time being in use, between the surface and the bottom of the shaft to the surface and from the surface to the bottom of the shaft and to every entrance for the time being in use between the surface and the bottom of the shaft.

## Rule 12.

A sufficient cover over head shall be used for every cage or tub employed in lowering or raising persons in any working shaft, except where the cage or tub is worked by a windlass or where persons are employed at work in the shaft or where a written exemption is given by the inspector.

## Rule 13.

Single linked chain shall not be used for lowering or raising persons in any working shaft or place except for the short coupling chain attached to the cage or load.

## Rule 14.

There shall be on the drum of every machine used for lowering or raising persons such flanges or horns, and also if the drum is conical such other appliances as are sufficient to prevent the rope from slipping.

## Rule 15.

There shall be attached to every machine worked by steam, water or mechanical power and used for lowering or raising persons an adequate brake and also a proper indicator, in addition to any mark on the rope, showing to the person who works the machine the position of the cage or load in the shaft.

## Rule 16.

Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be and be kept securely fenced.



## Rule 17.

Every steam boiler shall be provided with a proper steam gauge and water gauge to show, respectively, the pressure of steam and the height of water in the boiler and with a proper safety valve.

## Rule 18.

A ladder permanently used for the ascent or descent of persons in the mine shall not be fixed in a vertical or over-hanging position, but shall be inclined at the most convenient angle which the space in which the ladder is fixed allows; and every such ladder shall have substantial platforms at intervals of not more than twenty yards.

## Rule 19.

If more than twelve persons are ordinarily employed in the mine below ground sufficient accommodation shall be provided above ground near the principal entrance of the mine and not in the engine room or boiler room for enabling the persons employed in the mine to conveniently and with comfort dry and change their clothing.

## Rule 20.

No person shall wilfully damage or without proper authority remove or render useless any fence, fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam gauge, water gauge, safety valve or other appliance or thing provided for any mine in compliance with this Ordinance.

## Rule 21.

Every person shall observe such directions as are given with respect to working as are given to him with a view to comply with this Ordinance or any special rules in force under this Ordinance in the mine.

## Rule 22.

A competent person or persons who shall be appointed for the purpose shall once at least in every twenty-four hours examine the state of the external parts of the machinery, and the state of the head gear, working places, levels, planes, ropes, chains and other works of the mine which are in actual use and once at least in every week shall examine the state of the shafts by which persons ascend or descend and the guides or conductors therein.

## Rule 23.

Persons employed in a mine may from time to time appoint two of their number to inspect the mine at their own cost and the persons so appointed shall be allowed once at least in every month accompanied, if the owner, agent or manager thinks fit, by himself or one or more of the officers of the mine to inspect the shafts, levels, planes, working places, return air-ways, ventilating apparatus, old workings and machinery, and shall be afforded by the owner, agent or manager and all persons in the mine every facility for the purposes of inspection, and shall make a true report of the result of such inspection and such report shall be recorded in the book to be kept at the mine for the purpose and shall be signed by the persons who make the same.

## Rule 24.

The majority of the workmen at any mine may appoint a person to examine the seat of any accident resulting in the death or injury of any person.

(a) Every person who does not comply with or contravenes any of the general rules of this section shall be guilty of an offence against this Ordinance, and in the event of any non-compliance with or contravention of any of such general rules in the case of any mine by any person whomsoever being proved, the owner, agent and manager shall each be guilty of an offence against this Ordinance unless he proves that he had taken all reasonable means to prevent such non-compliance or contravention by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine.

(4) The Commissioner may from time to time make such additional rules as in his opinion appears necessary to better secure the safety of persons engaged in or about any mine, and non-compliance with or contravention of any rule so made shall be deemed non-compliance with or contravention of a general rule under this section.

Provided that Rules 6, 13, 15, 16, 18, 22 and 23 shall not apply to placer mines.

## Notices.

18. All notices required by this Ordinance shall be in writing or print or partly in writing and partly in print: and all notices and documents required by this Ordinance to be served or sent by or to the Commissioner or inspector may be either delivered

personally or served and sent by post by prepaid registered letter, and if served or sent by post shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such service or sending it shall be sufficient proof that the letter containing the notice was properly addressed and put in the post.

#### Penalties.

19. Every person employed in or about a mine other than an owner, agent or manager who is guilty of any act or omission which in the case of an owner, agent or manager would be an offence against this Ordinance shall be guilty of an offence against this Ordinance.

(2) Every owner, agent or manager who is guilty of an offence against this Ordinance shall be liable to a penalty not exceeding two hundred dollars.

(3) If such an offence is committed or continued after notice thereof, given by the inspector, a further penalty of twenty-five dollars for each violation or for each day that such violation continues after such notice shall be imposed.

(4) Every person other than an agent, owner or manager who is guilty of an offence against this Ordinance shall be liable to a penalty not exceeding fifty dollars.

(5) No prosecution shall be instituted against any owner, agent or manager for an offence against this Ordinance, except—

(a) By the inspector; or

(b) with the consent in writing of the Commissioner; or

(c) by some person appointed by the Commissioner; or

(d) by some person employed in or about the mine in respect to which the offence was committed appointed in writing to institute such prosecution by not less than ten persons so employed.

(6) If it appears that a boy was employed on the representation of the parent or guardian that he was of the age at which his employment would not be a contravention of this Ordinance, and under the belief in good faith that he was of such age, the owner, agent or manager of the mine shall, notwithstanding that the boy was not of such age, be exempt from any penalty in respect to such employment, and the parent or guardian shall for the misrepresentation be deemed guilty of an offence against this Ordinance.

(7) In any prosecution or other procedure against any owner, agent or manager for an offence against this Ordinance such owner, agent or manager shall be discharged if he proves to the satisfaction of the tribunal before which the same is tried that he took all reasonable means to prevent the commission of such offence.

(8) Any complaint or suit made or brought in pursuance of this Ordinance shall be made or brought within six months from the time when the matter of such complaint or suit came to the knowledge of the prosecutor.

(9) Where a penalty is imposed under this Ordinance for neglecting to send a notice of any explosion or accident or for any offence against this Ordinance which has occasioned loss of life or personal injury, the Commissioner may, if he thinks fit, direct such penalty to be paid to or distributed among the persons injured and the relatives of any person whose death has been occasioned by such explosion, accident or offence, or among some of them.

Provided that such persons did not in his opinion occasion or contribute to occasion the explosion or accident and did not commit and were not parties to the commission of the offence.

(10) Except as in this Ordinance otherwise provided, all penalties imposed in pursuance of this Ordinance shall be paid on receipt of the same into the general revenue fund.

#### SCHEDULE.

##### (Section 14.)

##### Form of Notice of Explosion or Accident.

Name of mine

Date

To the Commissioner of the Yukon Territory and to the  
Inspector of the District.

Sirs,—In pursuance of the Miners' Protection Ordinance I beg to give you notice that an explosion (or accident) has occurred at this mine, of which the following are the particulars:—

Place where accident occurred

Date of the accident

Character of the accident

If from explosion, whether of gas, explosive or steam boiler

36816—46½

Number, ages and names of persons killed  
 Number and names of persons injured seriously  
 Number and names of persons injured slightly  
 Number and relation of persons dependent on persons killed

I am, sirs,

Your obedient servant,

(signature)

### Employment of Children—School Attendance.

Chapter 79.—85. Every parent, guardian or other person resident in a school district having charge of any child or children between the ages of seven and twelve inclusive, shall be required to send such child or children to school for a period of at least sixteen weeks in each year, at least eight weeks of which time shall be consecutive, and every parent, guardian or other person who does not provide that every such child under his care shall attend school or be otherwise educated shall be subject to the penalties hereinafter provided.

86. It shall be the duty of the board of every district or any person authorized by it after being notified that any parent, guardian or other person having control of any child or children neglects or violates the provisions of the next preceding section to make complaint of such neglect or violation to a justice of the peace, and the person complained of shall on summary conviction be liable to a fine not exceeding \$1 for the first offence and double that penalty for each subsequent offence.

87. It shall be the duty of the justice of the peace to ascertain as far as may be the circumstances of any party complained of for not sending his child or children to school or otherwise educating him or them, and he shall accept any of the following as reasonable excuse:—

(a) That the child is under instruction in some other satisfactory manner;

(b) That the child has been prevented from attending school by sickness or unavoidable cause;

(c) That there is no school open which the child can attend within such distance not exceeding one mile measured according to the nearest passable road from the residence of such child;

(d) That such child has reached a standard of education of the same or of a greater degree than that to be attained in the school of the district within which such child resides;

(e) That such parent or guardian was not able by reason of poverty to clothe such child properly or that such child's bodily or mental condition has been such as to prevent his or her attendance at school or application to study for the period required.

### Wages as Preferred Claims—In Assignments.

[The Creditors' Trust Deeds Ordinance, 1916, chapter 1, contains the only labour legislation enacted in the Yukon Territory during the years 1915 and 1916. Sections 35 and 36 of this Ordinance provide for the priority of wages in assignments as follows:—]

35. Whenever an assignment is made of any real or personal property for the general benefit of creditors the assignee shall pay, in priority to all claims of the ordinary or general creditors of the person making the same the wages or salary of all persons in the employment of such person at the time of making such assignment, six months' wages or salary, and such persons shall be entitled to rank as ordinary general creditors for the residue (if any) of their claims.

36. The last preceding section shall apply to wages or salary, whether the employment in respect of which the same shall be payable be by the day, by the week, by the job or piece, or otherwise.

# INDEX

| A  | PAGE.              |
|--|--------------------|
| Abrogation of common law—                  |                    |
| New Brunswick.....                         | 245                |
| Nova Scotia.....                           | 204                |
| Ontario.....                               | 413                |
| Quebec.....                                | 250                |
| Saskatchewan.....                          | 492, 514           |
| Yukon.....                                 | 699                |
| Accidents, first aid provisions for—       |                    |
| British Columbia.....                      | 692                |
| Ontario.....                               | 321                |
| Quebec.....                                | 285                |
| Accidents, prevention of—                  |                    |
| Employers' associations for—               |                    |
| Nova Scotia.....                           | 203                |
| Ontario.....                               | 412                |
| In factories, shops, etc.—                 |                    |
| Manitoba.....                              | 430                |
| British Columbia.....                      | 609, 610           |
| 167-171, 178, 187-189                      |                    |
| New Brunswick.....                         | 233-235            |
| Nova Scotia.....                           | 144, 145           |
| Ontario.....                               | 381-382, 384       |
| Quebec.....                                | 270-272, 274, 279  |
| Saskatchewan.....                          | 479-480            |
| In mines—                                  |                    |
| Alberta.....                               | 573-583            |
| British Columbia.....                      | 650, 651, 662-667  |
| Manitoba.....                              | 450-452            |
| Nova Scotia.....                           | 162, 163           |
| 167-171, 178, 187-189                      |                    |
| Ontario.....                               | 316-320            |
| Quebec.....                                | 260, 261           |
| Yukon.....                                 | 719-724            |
| On buildings and excavations—              |                    |
| Alberta.....                               | 585-587            |
| Manitoba.....                              | 467-469            |
| Ontario.....                               | 371, 372           |
| Quebec.....                                | 273                |
| Saskatchewan.....                          | 516-518            |
| On electrical works—                       |                    |
| British Columbia.....                      | 603, 604           |
| Ontario.....                               | 329, 330           |
| Saskatchewan.....                          | 519                |
| On public utilities—                       |                    |
| Alberta.....                               | 593                |
| Manitoba.....                              | 458                |
| On railways—                               |                    |
| Alberta.....                               | 536, 537, 538, 593 |
| British Columbia.....                      | 672, 673           |
| Canada.....                                | 3, 6, 8, 9, 12     |
| Manitoba.....                              | 458                |
| New Brunswick.....                         | 217, 218           |
| Nova Scotia.....                           | 132, 134, 135      |
| Ontario.....                               | 357-360            |
| Quebec.....                                | 294                |
| Saskatchewan.....                          | 494, 495, 496, 499 |
| On ships—                                  |                    |
| Canada.....                                | 68, 69, 75, 76, 77 |
| (See also Safety devices and regulations.) |                    |
| Accidents, reports and investigations of—  |                    |
| Boiler explosions—                         |                    |
| Alberta.....                               | 556                |
| British Columbia.....                      | 599                |
| Nova Scotia.....                           | 193                |
| Saskatchewan.....                          | 486, 488           |
| Yukon.....                                 | 694                |
| From explosives—                           |                    |
| Canada.....                                | 111                |

| A—Con.                          | PAGE.                        |
|---------------------------------|------------------------------|
| Accidents, etc.—Con.            |                              |
| In factories, shops, etc.—      |                              |
| British Columbia.....           | 610, 611                     |
| Manitoba.....                   | 419, 430, 431, 436, 437      |
| New Brunswick.....              | 235                          |
| Nova Scotia.....                | 145, 148                     |
| Ontario.....                    | 383, 389                     |
| Quebec.....                     | 270, 276, 287                |
| Saskatchewan.....               | 479, 480, 485                |
| In mines—                       |                              |
| Alberta.....                    | 569, 570, 572, 573, 584, 585 |
| British Columbia.....           | 645, 649, 650, 659, 661      |
| Manitoba.....                   | 450                          |
| Nova Scotia.....                | 116, 163, 164, 189           |
| Ontario.....                    | 316, 324                     |
| Quebec.....                     | 260                          |
| Yukon.....                      | 717, 718, 719, 722, 723, 724 |
| On railways—                    |                              |
| Alberta.....                    | 538, 540, 593                |
| British Columbia.....           | 673, 674                     |
| Canada.....                     | 9, 10, 11, 13, 14            |
| Manitoba.....                   | 458                          |
| New Brunswick.....              | 216, 217                     |
| Nova Scotia.....                | 135, 137                     |
| Ontario.....                    | 366, 367                     |
| Quebec.....                     | 297, 299                     |
| Saskatchewan.....               | 496, 497, 498, 499           |
| (See also Compensation.)        |                              |
| Adolescents, employment of—     |                              |
| Ontario.....                    | 392                          |
| Agreements, trade—              |                              |
| Ship captains and seamen—       |                              |
| Canada.....                     | 33-35                        |
| Voyageurs and fishermen—        |                              |
| Quebec.....                     | 303, 304                     |
| Agreements waiving Wages Act—   |                              |
| Ontario.....                    | 347                          |
| Alien labour—                   |                              |
| Building trades protection..... | 585                          |
| Co-operative associations.....  | 585                          |
| Early closing.....              | 560                          |
| Master and servant.....         | 525                          |
| Mechanics' liens.....           | 526                          |
| Mines regulation.....           | 562                          |
| Railways.....                   | 533                          |
| Steam boilers.....              | 552                          |
| Sunday labour.....              | 524                          |
| Thresher employees' liens.....  | 587                          |
| Woodmen's liens.....            | 590                          |
| Workmen's compensation.....     | 540                          |
| Alien labour—                   |                              |
| British Columbia.....           | 626                          |
| Canada.....                     | 16, 17, 25-27, 106, 107      |
| Ontario.....                    | 365                          |
| (See also Chinese immigration.) |                              |
| Alien Labour Act—               |                              |
| Canada.....                     | 25                           |
| Alien labourers, protection of— |                              |
| Canada.....                     | 107                          |
| Ambulance Act—                  |                              |
| British Columbia.....           | 692                          |
| Apprenticeship—                 |                              |
| General provisions—             |                              |
| British Columbia.....           | 620-622                      |
| Canada.....                     | 88, 89                       |
| Manitoba.....                   | 437, 438, 439-442            |
| New Brunswick.....              | 214-215                      |
| Nova Scotia.....                | 138, 139                     |
| Ontario.....                    | 352-354                      |

| A—Con.   | PAGE.             |
|--|-------------------|
| Apprenticeship—Con.                                |                   |
| General provisions—Con.                            |                   |
| Prince Edward Island..                             | 115-117           |
| Quebec..   | 300, 302, 303     |
| Yukon..  | 705               |
| Of children's aid societies' wards—                |                   |
| Nova Scotia..                                      | vii               |
| Ontario..  | vii               |
| Prince Edward Island..                             | vii               |
| Saskatchewan..                                     | vii               |
| Of immigrant children—                             |                   |
| Manitoba..   | vi                |
| New Brunswick..                                    | vi                |
| Nova Scotia..                                      | vi                |
| Prince Edward Island..                             | vi                |
| Quebec..   | vi                |
| Of juvenile delinquents—                           |                   |
| British Columbia..                                 | vi                |
| Canada..   | vi                |
| Manitoba..   | vi                |
| New Brunswick..                                    | vi                |
| Ontario..  | vi                |
| Quebec..   | vi                |
| Saskatchewan..                                     | vi                |
| Of pilots—   |                   |
| Canada..   | 57, 58, 113       |
| Of seamen—   |                   |
| Canada..   | 33-51, 58         |
| Arbitration and conciliation—                      |                   |
| British Columbia..                                 | 622-626           |
| Canada..   | 22-25, 93-101     |
| Nova Scotia..                                      | 125-127, 150, 151 |
| Ontario..  | 347-352, 367      |
| Quebec..   | 265-268           |
| Assignments. (See also Wages as preferred claims.) |                   |
| Assignments of Wages Act—                          |                   |
| Manitoba..   | 418               |

## B

|   |          |
|---|----------|
| Badges of railway employees—                    |          |
| Alberta..                                       | 537      |
| British Columbia..                              | 672      |
| Canada..  | 3, 9     |
| Manitoba..                                      | 459      |
| New Brunswick..                                 | 216      |
| Nova Scotia..                                   | 134      |
| Ontario..                                       | 361      |
| Quebec..  | 295      |
| Saskatchewan..                                  | 495      |
| Bake Shop Act—                                  |          |
| Manitoba..                                      | 418      |
| Bake shops. (See Inspection and regulation of.) |          |
| Boilers. (See Inspection and regulation of.)    |          |
| Boycotting—                                     |          |
| British Columbia..                              | 680      |
| Boys, employment of. (See Children, etc.)       |          |
| Bribery of employees—                           |          |
| Canada..  | 106      |
| British Columbia—                               |          |
| Apprenticeship..                                | 620      |
| Coal mines regulation..                         | 635      |
| Co-operative associations..                     | 602      |
| Electrical works..                              | 603      |
| Employer's liability..                          | 604      |
| Employment offices..                            | 689      |
| Explosives..                                    | 605      |
| Factories..                                     | 606, 619 |
| First aid..                                     | 692      |
| Industrial disputes..                           | 622      |
| Industrial societies..                          | 620      |
| Master and servant..                            | 627      |
| Mechanics' liens..                              | 629      |

## B—Con.

|  | PAGE. |
|--|-------|
| British Columbia—Con.                              |       |
| Metalliferous mines inspection..                   | 659   |
| Protection of wages on public works, etc.. . . . . | 669   |
| Railways.. . . .                                   | 670   |
| Shops.. . . .                                      | 675   |
| Steam boilers.. . . .                              | 594   |
| Sunday labour.. . . .                              | 680   |
| Truck system.. . . .                               | 681   |
| Woodmen's liens.. . . .                            | 684   |
| Workmen's compensation.. . . .                     | 688   |
| Buildings. (See Protection of employees on.)       |       |
| Building Trades Protection Act—                    |       |
| Alberta.. . . .                                    | 585   |
| Manitoba.. . . .                                   | 467   |
| Ontario.. . . .                                    | 371   |
| Quebec.. . . .                                     | 273   |
| Saskatchewan.. . . .                               | 516   |
| Builders' and Workmen's Act—                       |       |
| Manitoba.. . . .                                   | 419   |
| Bureau of Labour Act—                              |       |
| Manitoba.. . . .                                   | 472   |
| New Brunswick.. . . .                              | 231   |
| Quebec.. . . .                                     | 255   |
| Saskatchewan.. . . .                               | 513   |
| Burial expenses. (See Compensation.)               |       |

## C

|  |          |
|--|----------|
| Canada—  |          |
| Alien labour..                                   | 25       |
| Chinese immigration..                            | 17       |
| Conciliation and labour..                        | 22       |
| Criminal Code..                                  | 87       |
| Explosives..                                     | 109      |
| Fair wages..                                     | 105      |
| Government railways..                            | 2        |
| Government vessels discipline..                  | 28       |
| Immigration..                                    | 106      |
| Industrial disputes..                            | 93       |
| Labour Department..                              | 105      |
| Lord's Day observance..                          | 92       |
| Pensions..                                       | 81, 101  |
| Protection of fishermen..                        | 107      |
| Public works health..                            | 86       |
| Railways..                                       | 4        |
| Secret commissions..                             | 106      |
| Shipping and seamen..                            | 30       |
| Trade unions..                                   | 82       |
| Wages liability..                                | 27       |
| White phosphorus matches..                       | 108      |
| Casual workers. (See Compensation.)              |          |
| Certificates—                                    |          |
| Birth, for employed children—                    |          |
| British Columbia..                               | 636      |
| Nova Scotia..                                    | 142      |
| Quebec..   | 275      |
| Coal miners'—                                    |          |
| Nova Scotia..                                    | 156-159  |
| School attendance, for employed children—        |          |
| Alberta..  | 563      |
| Nova Scotia..                                    | 159      |
| Ontario..  | 377      |
| Yukon..  | 719      |
| (See also examination and licensing of workmen.) |          |
| Check-weighers in mines—                         |          |
| Alberta..  | 568, 569 |
| British Columbia..                               | 637, 638 |
| Nova Scotia..                                    | 160-162  |
| Children, compensation payments to—              |          |
| Nova Scotia..                                    | 198      |
| Ontario..  | 402      |
| Quebec..   | 299      |

| C—Con.  | PAGE.                   |
|---|-------------------------|
| Children, employment of—  |                         |
| As elevator operators—  |                         |
| Manitoba.....   | 454                     |
| At night—   |                         |
| Manitoba.....   | 423                     |
| In bake-shops—  |                         |
| Manitoba.....   | 419                     |
| In bar rooms, breweries, etc.—  |                         |
| Alberta.....  | 524                     |
| Manitoba.....   | 438                     |
| New Brunswick.....  | 243                     |
| Quebec.....   | 256                     |
| Saskatchewan.....   | 521                     |
| Yukon.....  | 715                     |
| In factories—   |                         |
| British Columbia.....   | 607, 608                |
| Manitoba.....   | 427                     |
| New Brunswick.....  | 232                     |
| Nova Scotia.....  | 141, 142, 143           |
| Ontario.....  | 374, 375, 381           |
| Quebec.....   | 274, 275                |
| Saskatchewan.....   | 476                     |
| In injurious occupations—   |                         |
| Manitoba.....   | 423                     |
| In mines—   |                         |
| Alberta.....  | 563                     |
| British Columbia.....   | 636, 637, 662, 665      |
| Nova Scotia.....  | 159, 183, 184           |
| Ontario.....  | 315                     |
| Quebec.....   | 260                     |
| Yukon.....  | 718, 719                |
| In shops—   |                         |
| British Columbia.....   | 678, 679                |
| Manitoba.....   | 462                     |
| Nova Scotia.....  | 179                     |
| Ontario.....  | 374, 375, 377, 378      |
| In street trades—   |                         |
| Alberta.....  | 550                     |
| Manitoba.....   | 423                     |
| Ontario.....  | 390                     |
| Children, hours of labour of—   |                         |
| British Columbia.....   | 678, 679                |
| Nova Scotia.....  | 142, 143, 159, 183, 184 |
| Ontario.....  | 377, 378                |
| Quebec.....   | 275                     |
| (See also Apprentices, School attendance, etc.)                         |                         |
| Chinese immigration—  |                         |
| Canada.....   | 17-21                   |
| Claims for wages. (See Liens.)  |                         |
| Clerical workers. (See Compensation.)                                   |                         |
| Closing of shops. (See Hours of labour.)                                |                         |
| Clothing manufacture. (See Inspection and regulation of home industry.) |                         |
| Coal mines. (See Inspection and regulation of.)                         |                         |
| Coal mines, arbitration and conciliation in—                            |                         |
| Nova Scotia.....  | 125-127                 |
| Coal Mines Regulation Act—  |                         |
| British Columbia.....   | 635                     |
| Nova Scotia.....  | 155                     |
| Saskatchewan.....   | 491                     |
| Combustibles. (See Explosives.)   |                         |
| Common law. (See Abrogation of.)  |                         |
| Company Doctors Act—  |                         |
| Nova Scotia.....  | 137                     |
| Compensation—   |                         |
| Accident fund—  |                         |
| Nova Scotia.....  | 200-203                 |
| Ontario.....  | 396, 405-407, 409       |
| Accidents not entitling workmen to—                                     |                         |
| New Brunswick.....  | 245                     |
| Ontario.....  | 397                     |

| C—Con.                              | PAGE.                   |
|-------------------------------------|-------------------------|
| Compensation—Con.                   |                         |
| Accidents on ships or railways—     |                         |
| Ontario.....                        | 397                     |
| Accidents outside of Province—      |                         |
| Ontario.....                        | 397, 398                |
| Actions to recover—                 |                         |
| Alberta.....                        | 542, 544                |
| New Brunswick.....                  | 246-248                 |
| Nova Scotia.....                    | 196, 204                |
| Ontario.....                        | 398, 399                |
| Quebec.....                         | 301                     |
| Saskatchewan.....                   | 514-516                 |
| Yukon.....                          | 701-703                 |
| Amount of—                          |                         |
| Alberta.....                        | 545, 546                |
| New Brunswick.....                  | 245, 246                |
| Nova Scotia.....                    | 198, 199                |
| Ontario.....                        | 402, 403                |
| Quebec.....                         | 299, 300                |
| Saskatchewan.....                   | 516                     |
| Yukon.....                          | 700                     |
| Applications and claims—            |                         |
| Alberta.....                        | 542                     |
| New Brunswick.....                  | 246, 247                |
| Nova Scotia.....                    | 196, 199                |
| Ontario.....                        | 400                     |
| Yukon.....                          | 700, 701                |
| Apprentices—                        |                         |
| Quebec.....                         | 300                     |
| Assessments for accident fund—      |                         |
| Nova Scotia.....                    | 200-202, 203            |
| Ontario.....                        | 406, 407, 408-410       |
| Attachment or assignment of—        |                         |
| Nova Scotia.....                    | 196                     |
| Ontario.....                        | 399                     |
| Quebec.....                         | 300                     |
| Saskatchewan.....                   | 516                     |
| Beneficiaries—                      |                         |
| Alberta.....                        | 545                     |
| New Brunswick.....                  | 245                     |
| Nova Scotia.....                    | 198                     |
| Ontario.....                        | 402, 417                |
| Quebec.....                         | 299                     |
| Saskatchewan.....                   | 514                     |
| Yukon.....                          | 701                     |
| Benefit and insurance schemes—      |                         |
| Alberta.....                        | 543                     |
| Burial expenses—                    |                         |
| Alberta.....                        | 545                     |
| New Brunswick.....                  | 245                     |
| Nova Scotia.....                    | 198                     |
| Ontario.....                        | 402                     |
| Quebec.....                         | 299                     |
| Casual workers—                     |                         |
| New Brunswick.....                  | 244                     |
| Nova Scotia.....                    | 195                     |
| Ontario.....                        | 397, 412                |
| Civic employees—                    |                         |
| Nova Scotia.....                    | 195                     |
| Claims against insolvent employers— |                         |
| Alberta.....                        | 544                     |
| Saskatchewan.....                   | 515                     |
| Classes of workers entitled to—     |                         |
| Alberta.....                        | 541                     |
| New Brunswick.....                  | 244                     |
| Nova Scotia.....                    | 194, 195                |
| Ontario.....                        | 406, 407, 413, 414, 415 |
| Quebec.....                         | 299                     |
| Saskatchewan.....                   | 513                     |
| Classes of workers excluded from—   |                         |
| Alberta.....                        | 544, 545                |
| New Brunswick.....                  | 244                     |
| Nova Scotia.....                    | 195                     |
| Ontario.....                        | 397, 402-413            |
| Saskatchewan.....                   | 514, 515, 516           |

## C—Con.

## PAGE.

## Compensation—Con.

## Clerical workers—

|                    |          |
|--------------------|----------|
| New Brunswick..... | 244      |
| Nova Scotia.....   | 195      |
| Ontario.....       | 397, 412 |

## Common law, abrogation of—

|                    |          |
|--------------------|----------|
| New Brunswick..... | 245      |
| Nova Scotia.....   | 204      |
| Ontario.....       | 413      |
| Quebec.....        | 250      |
| Saskatchewan.....  | 492, 514 |
| Yukon.....         | 699      |

## Common law, actions under—

|                    |     |
|--------------------|-----|
| Alberta.....       | 542 |
| New Brunswick..... | 245 |
| Nova Scotia.....   | 204 |
| Ontario.....       | 412 |
| Quebec.....        | 300 |
| Saskatchewan.....  | 515 |

## Contractors and sub-contractors—

|                    |               |
|--------------------|---------------|
| Alberta.....       | 543           |
| New Brunswick..... | 245           |
| Nova Scotia.....   | 203           |
| Ontario.....       | 398, 399, 413 |
| Saskatchewan.....  | 515           |
| Yukon.....         | 699           |

## Contracts or agreements—

|                    |     |
|--------------------|-----|
| New Brunswick..... | 247 |
|--------------------|-----|

## Contributions by employees—

|                  |          |
|------------------|----------|
| Nova Scotia..... | 196      |
| Ontario.....     | 399      |
| Quebec.....      | 300, 304 |

## Costs of action for—

|                    |     |
|--------------------|-----|
| New Brunswick..... | 248 |
|--------------------|-----|

## Death—

|                    |          |
|--------------------|----------|
| Alberta.....       | 545, 546 |
| New Brunswick..... | 245      |
| Nova Scotia.....   | 198      |
| Ontario.....       | 402      |
| Quebec.....        | 299      |

## Deduction from wages in payment of—

|              |     |
|--------------|-----|
| Ontario..... | 399 |
| Quebec.....  | 304 |

## Employer, liability of—

|                       |               |
|-----------------------|---------------|
| Alberta.....          | 535, 542, 543 |
| British Columbia..... | 604           |
| Manitoba.....         | 424           |
| New Brunswick.....    | 247           |
| Nova Scotia.....      | 204           |
| Ontario.....          | 412, 413      |
| Quebec.....           | 250           |
| Saskatchewan.....     | 497, 514      |
| Yukon.....            | 698-703       |

## Employments covered—

|                    |          |
|--------------------|----------|
| Alberta.....       | 541      |
| New Brunswick..... | 244      |
| Nova Scotia.....   | 194, 195 |
| Ontario.....       | 413-415  |
| Quebec.....        | 299      |
| Saskatchewan.....  | 513      |

## Foreign workmen—

|             |     |
|-------------|-----|
| Quebec..... | 300 |
|-------------|-----|

## Industrial diseases—

|                  |          |
|------------------|----------|
| Nova Scotia..... | 203-205  |
| Ontario.....     | 411, 416 |

## Insurance companies in relation to—

|                   |          |
|-------------------|----------|
| Alberta.....      | 544      |
| Ontario.....      | 401, 417 |
| Quebec.....       | 301      |
| Saskatchewan..... | 515      |

## Insurance of employees—

|                   |          |
|-------------------|----------|
| Alberta.....      | 543      |
| Nova Scotia.....  | 195      |
| Ontario.....      | 401, 417 |
| Saskatchewan..... | 515      |

## C—Con.

## PAGE.

## Compensation—Con.

## Lump sum payments—

|                    |          |
|--------------------|----------|
| Alberta.....       | 545, 547 |
| New Brunswick..... | 245      |
| Nova Scotia.....   | 199      |
| Ontario.....       | 400, 401 |
| Quebec.....        | 300      |

## Medical and surgical aid—

|                  |          |
|------------------|----------|
| Nova Scotia..... | 199, 200 |
| Ontario.....     | 400      |

## Medical examinations—

|                  |          |
|------------------|----------|
| Alberta.....     | 546, 547 |
| Nova Scotia..... | 199      |
| Ontario.....     | 400      |
| Quebec.....      | 301      |

## Negligence of employer—

|                    |          |
|--------------------|----------|
| Alberta.....       | 542      |
| New Brunswick..... | 245      |
| Ontario.....       | 398, 412 |

## Non-residents—

|                  |          |
|------------------|----------|
| Nova Scotia..... | 196      |
| Ontario.....     | 398, 399 |
| Quebec.....      | 300      |

## Outworkers—

|                  |          |
|------------------|----------|
| Alberta.....     | 541      |
| Nova Scotia..... | 195      |
| Ontario.....     | 397, 412 |

## Partial disability —

|                    |          |
|--------------------|----------|
| Alberta.....       | 545      |
| New Brunswick..... | 246      |
| Nova Scotia.....   | 199      |
| Ontario.....       | 402, 403 |
| Quebec.....        | 299      |

## Periodical payments—

|                    |          |
|--------------------|----------|
| Alberta.....       | 545-547  |
| New Brunswick..... | 246, 248 |
| Nova Scotia.....   | 198, 199 |
| Ontario.....       | 402, 403 |
| Quebec.....        | 299, 300 |

## Permanent disability—

|                    |         |
|--------------------|---------|
| New Brunswick..... | 246     |
| Nova Scotia.....   | 198-199 |
| Ontario.....       | 402     |
| Quebec.....        | 299     |

## Review of—

|              |     |
|--------------|-----|
| Alberta..... | 547 |
| Ontario..... | 400 |

## Security for—

|                   |     |
|-------------------|-----|
| Alberta.....      | 544 |
| Quebec.....       | 301 |
| Saskatchewan..... | 515 |

## Settlement of disputes—

|              |              |
|--------------|--------------|
| Alberta..... | 542, 547-549 |
|--------------|--------------|

## Specific injuries—

|                    |     |
|--------------------|-----|
| New Brunswick..... | 246 |
|--------------------|-----|

## Substitute schemes—

|                    |     |
|--------------------|-----|
| Alberta.....       | 543 |
| New Brunswick..... | 247 |
| Nova Scotia.....   | 195 |

## Suspension of—

|              |     |
|--------------|-----|
| Ontario..... | 402 |
|--------------|-----|

## Temporary disability—

|                    |     |
|--------------------|-----|
| New Brunswick..... | 246 |
| Nova Scotia.....   | 199 |
| Ontario.....       | 403 |
| Quebec.....        | 299 |

## Third party, liability of—

|                  |     |
|------------------|-----|
| Alberta.....     | 546 |
| Nova Scotia..... | 196 |
| Ontario.....     | 398 |
| Quebec.....      | 300 |

## Total disability—

|                  |          |
|------------------|----------|
| Alberta.....     | 545      |
| Nova Scotia..... | 198, 199 |
| Ontario.....     | 402, 403 |
| Quebec.....      | 299      |



## C—Con.

## PAGE.

## D—Con.

## PAGE.

## Compensation—Con.

## Waiting time—

|                       |     |
|-----------------------|-----|
| New Brunswick.. . . . | 248 |
| Nova Scotia.. . . .   | 196 |
| Ontario.. . . .       | 397 |
| Quebec.. . . .        | 299 |
| Saskatchewan.. . . .  | 514 |

## Waivers—

|                       |          |
|-----------------------|----------|
| Alberta.. . . .       | 535, 544 |
| New Brunswick.. . . . | 247      |
| Nova Scotia.. . . .   | 196      |
| Saskatchewan.. . . .  | 497, 514 |

## Willful misconduct—

|                       |     |
|-----------------------|-----|
| Alberta.. . . .       | 542 |
| New Brunswick.. . . . | 245 |
| Nova Scotia.. . . .   | 196 |
| Ontario.. . . .       | 397 |

## Compensation Board—

## Accounts, auditing of—

|                     |     |
|---------------------|-----|
| Nova Scotia.. . . . | 198 |
| Ontario.. . . .     | 405 |

## Administration fund—

|                     |     |
|---------------------|-----|
| Nova Scotia.. . . . | 198 |
| Ontario.. . . .     | 405 |

## Annual report—

|                 |     |
|-----------------|-----|
| Ontario.. . . . | 405 |
|-----------------|-----|

## Duties, powers, etc., of—

|                     |                   |
|---------------------|-------------------|
| Nova Scotia.. . . . | 196-198, 199, 203 |
| Ontario.. . . .     | 403-405           |

## Information to be furnished to—

|                     |          |
|---------------------|----------|
| Nova Scotia.. . . . | 202      |
| Ontario.. . . .     | 407, 408 |

## Returns of accidents to—

|                     |     |
|---------------------|-----|
| Nova Scotia.. . . . | 199 |
| Ontario.. . . .     | 411 |

## Conciliation. (See Arbitration and conciliation.)

## Conciliation and Labour Act—

|                |    |
|----------------|----|
| Canada.. . . . | 22 |
|----------------|----|

## Contract labour—

|                |       |
|----------------|-------|
| Canada.. . . . | 25-27 |
|----------------|-------|

## Contractors—

## Rights and obligations of workmen as—

|                |          |
|----------------|----------|
| Quebec.. . . . | 250, 251 |
|----------------|----------|

## (See also Compensation.)

## Contracts, breaking of—

|                |    |
|----------------|----|
| Canada.. . . . | 90 |
|----------------|----|

## Contracts of employees. (See Compensation.)

## Contracts of employment—

|                              |          |
|------------------------------|----------|
| Alberta.. . . .              | 525, 526 |
| British Columbia.. . . .     | 627-629  |
| Manitoba.. . . .             | 439      |
| Ontario.. . . .              | 345-347  |
| Prince Edward Island.. . . . | 114, 115 |
| Quebec.. . . .               | 250, 251 |
| Saskatchewan.. . . .         | 501      |
| Yukon.. . . .                | 715, 716 |

## Co-operative associations—

|                          |          |
|--------------------------|----------|
| Alberta.. . . .          | 585      |
| British Columbia.. . . . | 602      |
| Manitoba.. . . .         | 423, 424 |
| Quebec.. . . .           | 299      |

## Co-operative Associations Act—

|                          |     |
|--------------------------|-----|
| Alberta.. . . .          | 585 |
| British Columbia.. . . . | 602 |
| Manitoba.. . . .         | 423 |
| Quebec.. . . .           | 299 |

## Criminal Code—

|                |    |
|----------------|----|
| Canada.. . . . | 87 |
|----------------|----|

## D

## Damages. (See Compensation.)

## Dangerous trades—

|                 |          |
|-----------------|----------|
| Ontario.. . . . | 377      |
| Quebec.. . . .  | 286, 287 |

## Death. (See Compensation.)

## Diseases, industrial. (See Compensation.)

## Disability, partial, total, etc. (See Compensation.)

## Dominion Steel Corporation, compensation scheme of—

|                     |     |
|---------------------|-----|
| Nova Scotia.. . . . | 195 |
|---------------------|-----|

## E

## Early closing. (See Hours of labour.)

## Early Closing Act—

|                       |     |
|-----------------------|-----|
| Alberta.. . . .       | 560 |
| New Brunswick.. . . . | 242 |
| Nova Scotia.. . . .   | 148 |

## Earnings of married women, protection of—

|                               |     |
|-------------------------------|-----|
| British Columbia.. . . .      | 626 |
| Manitoba.. . . .              | 439 |
| New Brunswick.. . . .         | 214 |
| Northwest Territories.. . . . | 14  |
| Nova Scotia.. . . .           | 137 |
| Ontario.. . . .               | 356 |
| Prince Edward Island.. . . .  | 123 |
| Saskatchewan.. . . .          | 491 |
| Yukon.. . . .                 | 15  |

## Earnings of minors. (See Wages, suits for by minors.)

## Eating rooms for employees—

|                          |     |
|--------------------------|-----|
| British Columbia.. . . . | 608 |
| Manitoba.. . . .         | 428 |
| Nova Scotia.. . . .      | 143 |
| Ontario.. . . .          | 378 |
| Saskatchewan.. . . .     | 477 |

## Electric railway employees. (See Street railway employees.)

## Electrical construction, etc. See Inspection and regulation of.)

## Electricity, use of, in mines—

|                     |         |
|---------------------|---------|
| Nova Scotia.. . . . | 176     |
| Ontario.. . . .     | 321-323 |

## Elevators. (See Inspection and regulation of.)

## Employees, health of. (See Health of employees.)

## Employees, protection of. (See Protection of employees.)

## Employers' Associations, prevention of accidents by—

|                     |     |
|---------------------|-----|
| Nova Scotia.. . . . | 203 |
| Ontario.. . . .     | 412 |

## Employers' liability. (See Liability of employers.)

## Employers' Liability Act—

|                          |     |
|--------------------------|-----|
| British Columbia.. . . . | 604 |
| Manitoba.. . . .         | 424 |
| Yukon.. . . .            | 698 |

## Employers to furnish names of employees to assessors—

|                      |          |
|----------------------|----------|
| Saskatchewan.. . . . | 500, 522 |
|----------------------|----------|

## Employers to provide seats for female workers—

|                          |     |
|--------------------------|-----|
| British Columbia.. . . . | 678 |
| Manitoba.. . . .         | 462 |
| Nova Scotia.. . . .      | 179 |
| Ontario.. . . .          | 377 |
| Quebec.. . . .           | 271 |

## Employment Agencies Act—

|                          |     |
|--------------------------|-----|
| British Columbia.. . . . | 689 |
| Ontario.. . . .          | 416 |
| Quebec.. . . .           | 266 |
| Saskatchewan.. . . .     | 519 |

## Employment of children. (See Children, employment of.)

| E—Con.   | PAGE.        |
|--|--------------|
| Employment of labour—                                  |              |
| False representations—                                 |              |
| British Columbia.....                                  | 688, 689     |
| Canada.....  | 407          |
| Fishermen and voyageurs—                               |              |
| Quebec.....  | 303, 304     |
| General provisions—                                    |              |
| Alberta.....   | 525, 526     |
| British Columbia.....                                  | 627-629      |
| Manitoba.....  | 439-442      |
| Ontario.....   | 345-347      |
| Prince Edward Island.....                              | 114, 115     |
| Quebec.....  | 250, 301-303 |
| Saskatchewan.....                                      | 501          |
| Yukon.....   | 715, 716     |
| Government printing and stationery offices—            |              |
| Canada.....  | 16           |
| On subsidized works—                                   |              |
| British Columbia.....                                  | 626          |
| Employment of women. (See Women, employment of.)       |              |
| Employment offices—                                    |              |
| British Columbia.....                                  | 689-691      |
| Canada.....  | 107          |
| Ontario.....   | 416          |
| Quebec.....  | 268, 269     |
| Saskatchewan.....                                      | 519, 520     |
| Engineers. (See Examination and licensing of workmen.) |              |
| Examination and licensing of workmen—                  |              |
| Bartenders—  |              |
| Alberta.....   | 524          |
| Manitoba.....  | 438          |
| Ontario.....   | 368          |
| Saskatchewan.....                                      | 521          |
| Chauffeurs—  |              |
| Alberta.....   | 551, 552     |
| British Columbia.....                                  | 667, 668     |
| Manitoba.....  | 452, 453     |
| New Brunswick.....                                     | 248, 249     |
| Nova Scotia.....                                       | 193, 194     |
| Ontario.....   | 368          |
| Prince Edward Island.....                              | 123, 124     |
| Quebec.....  | 258, 259     |
| Saskatchewan.....                                      | 518, 519     |
| Marine engineers—                                      |              |
| Canada.....  | 69-73        |
| Miners—  |              |
| Alberta.....   | 565-567      |
| British Columbia.....                                  | 640-644      |
| Nova Scotia.....                                       | 156-159      |
| Moving picture operators—                              |              |
| Alberta.....   | 562          |
| British Columbia.....                                  | 691          |
| Manitoba.....  | 453          |
| New Brunswick.....                                     | 242          |
| Nova Scotia.....                                       | 213          |
| Saskatchewan.....                                      | 519          |
| Pilots—  |              |
| Canada.....  | 57-62, 113   |
| Plumbers—  |              |
| British Columbia.....                                  | 619          |
| Railway employees—                                     |              |
| British Columbia.....                                  | 672          |
| Canada.....  | 6            |
| Ontario.....   | 364          |
| Saskatchewan.....                                      | 500          |
| Stationary engineers, etc.—                            |              |
| Alberta.....   | 557-560      |
| British Columbia.....                                  | 599-602      |
| Manitoba.....  | 473          |
| New Brunswick.....                                     | 238, 239     |
| Nova Scotia.....                                       | 174-176      |
| Ontario.....   | 355, 356     |

| E—Con.   | PAGE.             |
|--|-------------------|
| Examination and licensing of workmen—Con.      |                   |
| Stationary engineers, etc.—Con.                |                   |
| Quebec.....                                    | 288               |
| Saskatchewan.....                              | 488-491           |
| Yukon.....                                     | 695-697           |
| Examination of books, records, pay rolls, etc— |                   |
| Alberta.....                                   | 571               |
| British Columbia.....                          | 611               |
| Manitoba.....                                  | 431               |
| New Brunswick.....                             | 236               |
| Nova Scotia.....                               | 142               |
| Ontario.....                                   | 375, 376          |
| Quebec.....                                    | 271, 277          |
| Saskatchewan.....                              | 481               |
| Yukon.....                                     | 718               |
| Excavations. (See Protection of employees.)    |                   |
| Exits. (See Fire escapes.)                     |                   |
| Explosions. (See Accidents.)                   |                   |
| Explosives Act—                                |                   |
| British Columbia.....                          | 605               |
| Canada.....                                    | 109               |
| Manitoba.....                                  | 425               |
| Explosives—                                    |                   |
| Manufacture, storage, use, etc., of—           |                   |
| Alberta.....                                   | 574, 575          |
| British Columbia.....                          | 605, 606          |
| Canada.....                                    | 619, 652-654, 663 |
| Manitoba.....                                  | 109-113           |
| New Brunswick.....                             | 425, 426, 450     |
| Nova Scotia.....                               | 234               |
| Ontario.....                                   | 128, 130, 131     |
| Quebec.....                                    | 316, 317          |
| Saskatchewan.....                              | 256, 257, 261     |
| Yukon.....                                     | 513               |
| Transportation of—                             |                   |
| Alberta.....                                   | 703, 704, 720     |
| British Columbia.....                          | 537               |
| Canada.....                                    | 673               |
| Manitoba.....                                  | 3, 9              |
| New Brunswick.....                             | 425, 459, 460     |
| Nova Scotia.....                               | 216               |
| Ontario.....                                   | 130, 131, 134     |
| Quebec.....                                    | 361               |
| Saskatchewan.....                              | 257, 295          |
| Yukon.....                                     | 495               |

## F

|  |          |
|--|----------|
| Factories. (See Inspection and regulation of.) |          |
| Factories Act—                                 |          |
| British Columbia.....                          | 606      |
| Manitoba.....                                  | 426      |
| New Brunswick.....                             | 232      |
| Nova Scotia.....                               | 139      |
| Ontario.....                                   | 372      |
| Quebec.....                                    | 273      |
| Saskatchewan.....                              | 575      |
| Fair wages—                                    |          |
| On public works—                               |          |
| British Columbia.....                          | 691      |
| Canada.....                                    | 105      |
| New Brunswick.....                             | 242      |
| Nova Scotia.....                               | 179      |
| On railways—                                   |          |
| Alberta.....                                   | 535      |
| British Columbia.....                          | 671      |
| Canada.....                                    | 7        |
| Ontario.....                                   | 365      |
| Saskatchewan.....                              | 493, 494 |
| Resolution re—                                 |          |
| Canada.....                                    | 105      |
| False representations to workmen—              |          |
| British Columbia.....                          | 688, 689 |

## F—Con.

## PAGE.

|   |                    |
|---|--------------------|
| <b>Fatal Accidents Act—</b>                           |                    |
| Alberta.....  | vii                |
| British Columbia.....                                 | vii                |
| Manitoba.....   | vii                |
| New Brunswick.....                                    | vii                |
| Nova Scotia.....                                      | vii                |
| Ontario.....  | vii                |
| Saskatchewan.....                                     | vii                |
| Yukon.....  | vii                |
| <b>Fatal accidents, right of action for—</b>          |                    |
| Alberta.....  | vii                |
| British Columbia.....                                 | vii                |
| Manitoba.....   | vii                |
| New Brunswick.....                                    | vii                |
| Nova Scotia.....                                      | vii, 204           |
| Ontario.....  | vii, 417           |
| Saskatchewan.....                                     | vii                |
| Yukon.....  | vii                |
| <b>Female employees, seats for. (See Seats, etc.)</b> |                    |
| <b>Fire escapes—</b>                                  |                    |
| British Columbia.....                                 | 610, 617, 618      |
| Manitoba.....   | 419, 430           |
| New Brunswick.....                                    | 235                |
| Nova Scotia.....                                      | 128-130, 144, 145  |
| Ontario.....  | 383, 416, 417      |
| Quebec.....   | 271, 272, 276, 283 |
| Saskatchewan.....                                     | 479                |
| <b>Fire prevention—</b>                               |                    |
| British Columbia.....                                 | 619, 663           |
| Manitoba.....   | 437                |
| Nova Scotia.....                                      | 128                |
| Ontario.....  | 383, 416, 417      |
| Quebec.....   | 273                |
| Saskatchewan.....                                     | 518                |
| Yukon.....  | 703, 704           |
| <b>First Aid, provisions for—</b>                     |                    |
| British Columbia.....                                 | 692                |
| Ontario.....  | 321                |
| Quebec.....   | 285                |
| <b>Fishermen—</b>                                     |                    |
| <b>Employment of—</b>                                 |                    |
| Canada.....   | 107, 108           |
| Quebec.....   | 303, 304           |
| <b>Protection of—</b>                                 |                    |
| Canada.....   | 107, 108           |
| <b>Fishermen's liens. (See Liens, fishermen's.)</b>   |                    |
| <b>Food, taking of, into workrooms—</b>               |                    |
| British Columbia.....                                 | 608                |
| Manitoba.....   | 428                |
| Nova Scotia.....                                      | 143                |
| Ontario.....  | 378                |
| Saskatchewan.....                                     | 477                |
| <b>Foundries, regulations relating to—</b>            |                    |
| Quebec.....   | 287                |

## G

|  |          |
|--|----------|
| <b>Gambling by workmen in hotels—</b>                    |          |
| Quebec.....  | 269, 270 |
| <b>Government Railway Employees' Provident Fund Act—</b> |          |
| Canada.....  | 101      |
| <b>Government Vessels Discipline Act—</b>                |          |
| Canada.....  | 28       |

## H

|                             |          |
|-----------------------------|----------|
| <b>Health of employees—</b> |          |
| <b>In bake-shops—</b>       |          |
| British Columbia.....       | 679      |
| Manitoba.....               | 419, 456 |
| Ontario.....                | 383, 384 |

## H—Con.

## PAGE.

|   |                              |
|---|------------------------------|
| <b>Health of employees—Con.</b>                           |                              |
| <b>In construction camps, etc.—</b>                       |                              |
| British Columbia.....                                     | 619, 620                     |
| Manitoba.....   | 454                          |
| Ontario.....  | 368, 369                     |
| Quebec.....   | 288                          |
| Saskatchewan.....   | 474                          |
| <b>In factories—</b>                                      |                              |
| British Columbia.....                                     | 609, 610, 613, 614, 619      |
| Manitoba.....   | 429, 454, 455                |
| New Brunswick.....  | 233, 234, 242                |
| Nova Scotia.....  | 140-142, 178                 |
| Ontario.....  | 368, 379, 380, 384           |
| Quebec.....   | 274, 279                     |
| Saskatchewan.....   | 280, 284, 285, 287, 289, 292 |
| Yukon.....  | 474, 475, 477, 478, 480      |
| <b>In laundries—</b>                                      |                              |
| Manitoba.....   | 457, 458                     |
| <b>In mines—</b>  |                              |
| Alberta.....  | 573                          |
| British Columbia.....                                     | 650, 662                     |
| Manitoba.....   | 450                          |
| Nova Scotia.....  | 167, 187                     |
| Ontario.....  | 316, 320, 321                |
| Quebec.....   | 260, 261                     |
| Yukon.....  | 720                          |
| <b>In offices—</b>  |                              |
| Ontario.....  | 379, 380, 384                |
| Quebec.....   | 271                          |
| Saskatchewan.....   | 475                          |
| <b>In shops—</b>  |                              |
| British Columbia.....                                     | 678                          |
| Manitoba.....   | 462                          |
| Ontario.....  | 379, 380, 384                |
| Quebec.....   | 271                          |
| Saskatchewan.....   | 474                          |
| <b>In slaughter houses—</b>                               |                              |
| Manitoba.....   | 456, 457                     |
| Saskatchewan.....   | 474                          |
| <b>On public works—</b>                                   |                              |
| Canada.....   | 86, 87                       |
| <b>Health of seamen—</b>                                  |                              |
| Canada.....   | 41-43                        |
| <b>Holidays and rest days—</b>                            |                              |
| Manitoba.....   | 435                          |
| (See also Sunday labour.)                                 |                              |
| <b>Home Industry. (See Inspection and regulation of.)</b> |                              |
| <b>Homes for workmen. (See Housing.)</b>                  |                              |
| <b>Hours of labour—</b>                                   |                              |
| <b>For children—</b>                                      |                              |
| British Columbia.....                                     | 678, 679                     |
| Nova Scotia.....  | 142, 143, 159, 183, 184      |
| Ontario.....  | 377, 378                     |
| Quebec.....   | 275                          |
| <b>For women—</b>   |                              |
| British Columbia.....                                     | 608, 609, 678                |
| New Brunswick.....  | 232, 233                     |
| Nova Scotia.....  | 142, 143                     |
| Ontario.....  | 377, 378                     |
| Quebec.....   | 275                          |
| <b>In bake-shops—</b>                                     |                              |
| Manitoba.....   | 419                          |
| Ontario.....  | 384                          |
| <b>In factories—</b>                                      |                              |
| British Columbia.....                                     | 608, 609                     |
| Manitoba.....   | 428                          |
| New Brunswick.....  | 232, 233                     |
| Nova Scotia.....  | 142, 143                     |
| Ontario.....  | 377, 378                     |
| Quebec.....   | 275                          |
| Saskatchewan.....   | 476, 477                     |
| <b>In mines—</b>  |                              |
| Alberta.....  | 563, 564                     |
| British Columbia.....                                     | 638, 666                     |
| Nova Scotia.....  | 183, 184                     |
| Ontario.....  | 315                          |

| H—Con.   | PAGE.              |
|--|--------------------|
| Hours of Labour—Con.   |                    |
| In shops—  |                    |
| Alberta.....   | 524, 551, 560, 561 |
| British Columbia.....  | 676, 677, 678      |
| Manitoba.....  | 460-462            |
| New Brunswick.....   | 242                |
| Nova Scotia.....   | 148-150, 179       |
| Ontario.....   | 377, 378, 385, 386 |
| Quebec.....  | 292                |
| Saskatchewan.....  | 522                |
| In smelters—   |                    |
| British Columbia.....  | 626                |
| On railways—   |                    |
| Ontario.....   | 364, 366           |
| On street railways—  |                    |
| Nova Scotia.....   | 191                |
| Ontario.....   | 364, 366           |
| Housing Accommodation Act—   |                    |
| Manitoba.....  | 471                |
| New Brunswick.....   | 243                |
| Ontario.....   | 369                |
| Quebec.....  | 308, 311           |
| Housing accommodation—   |                    |
| For miners—  |                    |
| New Brunswick.....   | 241                |
| For workmen—   |                    |
| Manitoba.....  | 471, 472           |
| New Brunswick.....   | 243, 244           |
| Ontario.....   | 369-371            |
| Quebec.....  | 308-313            |
| I  |                    |
| Immigration Act—   |                    |
| Canada.....  | 106                |
| Immigration, Chinese—  |                    |
| Canada.....  | 17-21              |
| Immigration, regulation of—  |                    |
| Canada.....  | 106, 107           |
| Immigration societies, employment of labour through—                     |                    |
| Canada.....  | 16                 |
| Immovable, claim of workman for work on. (See Liens.)                    |                    |
| Industrial accidents and diseases. (See Compensation.)                   |                    |
| Industrial and provident societies—                                      |                    |
| British Columbia.....  | 620                |
| Industrial disputes—   |                    |
| British Columbia.....  | 622-626            |
| Canada.....  | 22-25, 93-101      |
| Nova Scotia.....   | 125-127, 150, 151  |
| Ontario.....   | 347-352, 367       |
| Quebec.....  | 265-268            |
| Industrial Disputes Investigation Act—                                   |                    |
| Canada.....  | 93                 |
| Industrial education. (See Vocational training.)                         |                    |
| Industrial establishments. (See Inspection and regulation of factories.) |                    |
| Injury. (See Compensation.)  |                    |
| Inspection and regulation of bake-shops—                                 |                    |
| British Columbia.....  | 679, 680           |
| Manitoba.....  | 418, 419           |
| Ontario.....   | 383, 384           |
| Inspection and regulation of boilers—                                    |                    |
| Alberta.....   | 552-556            |
| British Columbia.....  | 594-598            |
| Manitoba.....  | 462                |
| Nova Scotia.....   | 191-193            |
| New Brunswick.....   | 234                |
| Ontario.....   | 382, 390, 391      |
| Quebec.....  | 276, 278, 281, 288 |
| Saskatchewan.....  | 485-488            |
| Yukon.....   | 693, 694           |

| I—Con.  | PAGE.    |
|---|----------|
| Inspection and regulation of coal mines—  |          |
| British Columbia.....   | 635-659  |
| Nova Scotia.....  | 155-174  |
| Saskatchewan.....   | 491      |
| Inspection and regulation of construction camps, etc.—  |          |
| British Columbia.....   | 619, 620 |
| Ontario.....  | 638, 639 |
| Inspection and regulations of electrical works, appliances, etc.—                               |          |
| British Columbia.....   | 603, 604 |
| Ontario.....  | 329, 330 |
| Inspection and regulation of elevators—   |          |
| New Brunswick.....  | 234, 235 |
| Ontario.....  | 382      |
| Inspection and regulation of factories—   |          |
| British Columbia.....   | 607-617  |
| Manitoba.....   | 426-437  |
| New Brunswick.....  | 232-239  |
| Nova Scotia.....  | 139-148  |
| Ontario.....  | 372-389  |
| Quebec.....   | 273-288  |
| Saskatchewan.....   | 475-485  |
| (See also Accidents; Children, employment of; Health of employees; Hours of labour, etc., etc.) |          |
| Inspection and regulation of home industry—   |          |
| British Columbia.....   | 613      |
| Manitoba.....   | 433      |
| Ontario.....  | 380, 381 |
| Inspection and regulation of metal-liferous mines—  |          |
| British Columbia.....   | 659-667  |
| Nova Scotia.....  | 183-190  |
| Inspection and regulation of mines—   |          |
| Alberta.....  | 562-585  |
| Manitoba.....   | 448-452  |
| Ontario.....  | 314-327  |
| Quebec.....   | 260, 261 |
| Yukon.....  | 716-724  |
| (See also Accidents; Health of employees; Safety devices, etc., etc.)                           |          |
| Inspection and regulation of offices—   |          |
| Ontario.....  | 372-389  |
| Quebec.....   | 270-272  |
| (See also Accidents; Health of employees, etc., etc.)   |          |
| Inspection and regulation of shops—   |          |
| British Columbia.....   | 675-680  |
| Manitoba.....   | 460-462  |
| Nova Scotia.....  | 179      |
| Ontario.....  | 372-389  |
| Quebec.....   | 270-272  |
| (See also Accidents; Women, employment of; Health of employees, etc., etc.)                     |          |
| Inspection of locomotive boilers—   |          |
| Nova Scotia.....  | 135      |
| Inspection of ships—  |          |
| Canada.....   | 43       |
| Inspectors—   |          |
| Of boilers—   |          |
| Alberta.....  | 553, 554 |
| British Columbia.....   | 595, 596 |
| Manitoba.....   | 462      |
| Ontario.....  | 390, 391 |
| Quebec.....   | 281      |
| Saskatchewan.....   | 485, 486 |
| Yukon.....  | 493, 694 |
| Of electrical works, etc.—  |          |
| British Columbia.....   | 603, 604 |

## I—Con.

## PAGE.

## Inspectors—Con.

## Of factories, shops, etc.—

|                  |                    |
|------------------|--------------------|
| British Columbia | 611, 612           |
| Manitoba         | 431, 432           |
| New Brunswick    | 235-238            |
| Nova Scotia      | 145, 146           |
| Ontario          | 375, 376           |
| Quebec           | 271, 272, 276, 277 |
| Saskatchewan     | 480, 481           |

## Of mines—

|                  |                        |
|------------------|------------------------|
| Alberta          | 571, 572, 577          |
| British Columbia | 646-648, 655, 659, 660 |
| Manitoba         | 449, 450               |
| Nova Scotia      | 164, 165, 185-187, 189 |
| Ontario          | 325, 326               |
| Quebec           | 260                    |
| Yukon            | 717, 718, 722          |

## Of scaffolding, etc.—

|              |          |
|--------------|----------|
| Alberta      | 585, 586 |
| Manitoba     | 467-469  |
| Ontario      | 371, 372 |
| Quebec       | 273      |
| Saskatchewan | 516-518  |

## Insurance of employees—

|              |          |
|--------------|----------|
| Alberta      | 543      |
| Nova Scotia  | 195      |
| Ontario      | 401, 417 |
| Saskatchewan | 515      |

## Intimidation—

|        |    |
|--------|----|
| Canada | 90 |
|--------|----|

## Intoxicants, sale of, near public works, mines, etc.—

|         |               |
|---------|---------------|
| Canada  | 88            |
| Ontario | 368           |
| Quebec  | 255, 258, 261 |

## Intoxication. (See Railway employees.)

## L

## Labour, Bureau of. (See Labour Departments and Bureaus.)

## Labour contracts—

|                   |          |
|-------------------|----------|
| Extra provincial— |          |
| British Columbia  | 628, 629 |

## Limitation of—

|         |     |
|---------|-----|
| Ontario | 345 |
|---------|-----|

## Labour Department Act—

|        |     |
|--------|-----|
| Canada | 105 |
| Quebec | 261 |

## Labour Departments and Bureaus—

|               |          |
|---------------|----------|
| Canada        | 105, 106 |
| Manitoba      | 472, 473 |
| New Brunswick | 231, 232 |
| Ontario       | 329      |
| Quebec        | 261, 262 |
| Saskatchewan  | 513      |

## Labour Gazette—

|        |        |
|--------|--------|
| Canada | 23, 24 |
|--------|--------|

## Labour organizations—

## Exempt from laws against combines—

|        |    |
|--------|----|
| Canada | 89 |
|--------|----|

## Liability of—

|                  |     |
|------------------|-----|
| British Columbia | 680 |
|------------------|-----|

## Registry, etc., of.—

|        |       |
|--------|-------|
| Canada | 83-86 |
|--------|-------|

## Labour statistics—

|                  |          |
|------------------|----------|
| Alberta          | 569      |
| British Columbia | 644, 661 |
| Canada           | 23       |
| Manitoba         | 449, 473 |
| New Brunswick    | 231      |
| Ontario          | 324, 329 |

## L—Con.

## PAGE.

## Labour statistics—Con.

|              |          |
|--------------|----------|
| Quebec       | 255, 262 |
| Saskatchewan | 513      |

## Laundries, licensing of—

|        |          |
|--------|----------|
| Quebec | 257, 258 |
|--------|----------|

## Liability of directors for employees' wages—

|              |          |
|--------------|----------|
| Alberta      | 525      |
| Canada       | 15       |
| Manitoba     | 423, 452 |
| Quebec       | 293, 298 |
| Saskatchewan | 521      |

## Liability of employers—

## For injuries to employees—

|                  |               |
|------------------|---------------|
| Alberta          | 535, 542, 543 |
| British Columbia | 604           |
| Manitoba         | 424           |
| New Brunswick    | 247           |
| Nova Scotia      | 204           |
| Ontario          | 412, 413      |
| Quebec           | 250           |
| Saskatchewan     | 497, 514      |
| Yukon            | 598-703       |

## (See also Compensation.)

## For maintenance of employees in hospitals—

|          |          |
|----------|----------|
| Manitoba | 421, 422 |
| Ontario  | 396      |

## For taxes of employees—

|                  |          |
|------------------|----------|
| Alberta          | 524      |
| British Columbia | 691      |
| Saskatchewan     | 500, 522 |

## Licensing of laundries—

|        |          |
|--------|----------|
| Quebec | 257, 258 |
|--------|----------|

## Licensing of workmen (See Examination and licensing of workmen.)

## Liens—

## Fishermen's—

|        |          |
|--------|----------|
| Quebec | 251, 304 |
|--------|----------|

## Mechanics'—

|                      |         |
|----------------------|---------|
| Alberta              | 526-533 |
| British Columbia     | 629-635 |
| Manitoba             | 442-448 |
| New Brunswick        | 219-226 |
| Nova Scotia          | 205-212 |
| Ontario              | 330-337 |
| Prince Edward Island | 118-122 |
| Quebec               | 251-253 |
| Saskatchewan         | 501-507 |
| Yukon                | 705-709 |

## Miners'—

|         |          |
|---------|----------|
| Ontario | 326, 327 |
| Yukon   | 709-711  |

## Thresher employees'—

|         |         |
|---------|---------|
| Alberta | 587-590 |
|---------|---------|

## Woodmen's—

|                  |          |
|------------------|----------|
| Alberta          | 590-592  |
| British Columbia | 684-688  |
| Manitoba         | 464-467  |
| New Brunswick    | 226-230  |
| Nova Scotia      | 180-183  |
| Ontario          | 337-342  |
| Quebec           | 251, 252 |
| Saskatchewan     | 507-510  |
| Yukon            | 712-715  |

## Log-book, entries in—

|        |        |
|--------|--------|
| Canada | 44, 45 |
|--------|--------|

## Liquor licenses. (See Intoxicants, sale of, etc.)

## Lord's Day Act—

|                  |     |
|------------------|-----|
| Alberta          | 524 |
| British Columbia | 680 |
| Canada           | 92  |
| Manitoba         | 438 |
| New Brunswick    | 218 |
| Nova Scotia      | 139 |
| Ontario          | 396 |

| L—Con.                                |          | M—Con.                                 |               |
|---------------------------------------|----------|--|---------------|
|                                       | PAGE.    |  | PAGE.         |
| Lord's Day Act—Con.                   |          | Miners' Arbitration Act—               |               |
| Prince Edward Island.. . . .          | 114      | Nova Scotia.. . . .                    | 125           |
| Quebec.. . . .                        | 292      | Miners' Lien Act—                      |               |
| Saskatchewan.. . . .                  | 492      | Yukon.. . . .                          | 709           |
| <b>M</b>                              |          | Miners' liens. (See Liens, miners'.)   |               |
| Manitoba—                             |          | Miners' Relief Societies Act—          |               |
| Apprenticeship.. . . .                | 437      | Nova Scotia.. . . .                    | 127, 153      |
| Assignment of wages.. . . .           | 418      | Miners, schools for—                   |               |
| Bake shops.. . . .                    | 418      | Nova Scotia.. . . .                    | 153           |
| Building trades protection.. . . .    | 467      | Mines. (See Inspection and regula-     |               |
| Bureau of labour.. . . .              | 472      | tion of.)                              |               |
| Co-operative associations.. . . .     | 423      | Mines, statistical returns of. (See    |               |
| Employers' liability.. . . .          | 424      | Labour statistics.)                    |               |
| Explosives.. . . .                    | 425      | Mines, use of electricity in—          |               |
| Factories.. . . .                     | 426, 455 | Nova Scotia.. . . .                    | 176           |
| Housing.. . . .                       | 471      | Ontario.. . . .                        | 321-323       |
| Master and servant.. . . .            | 439      | Mining Act—                            |               |
| Mechanics' liens.. . . .              | 442      | Alberta.. . . .                        | 562           |
| Mines regulation.. . . .              | 448      | Manitoba.. . . .                       | 448           |
| Protection of builders' wages.. . . . | 419      | Ontario.. . . .                        | 314           |
| Railways.. . . .                      | 458      | Quebec.. . . .                         | 260           |
| Shops.. . . .                         | 460      | Minors, earnings of. (See Wages,       |               |
| Stationary engineers.. . . .          | 473      | suits for, by minors.)                 |               |
| Steam boilers.. . . .                 | 462      | Municipal by-laws—                     |               |
| Sunday labour.. . . .                 | 438      | Alberta.. . . .                        | vi            |
| Woodmen's liens.. . . .               | 464      | British Columbia.. . . .               | vi            |
| Workmen's compensation.. . . .        | 467      | Manitoba.. . . .                       | vi            |
| Marine engineers. (See Examina-       |          | New Brunswick.. . . .                  | vi            |
| tion and licensing of workmen.)       |          | Nova Scotia.. . . .                    | vi            |
| Master and servant. (See Employ-      |          | Ontario.. . . .                        | vi            |
| ment of labour.)                      |          | Quebec.. . . .                         | vi            |
| Master and Servant Act—               |          | Saskatchewan.. . . .                   | vi            |
| Alberta.. . . .                       | 525      | Yukon.. . . .                          | vi            |
| British Columbia.. . . .              | 627      | <b>N</b>                               |               |
| Manitoba.. . . .                      | 439      | Negligence of employees—               |               |
| Ontario.. . . .                       | 345      | On canals—                             |               |
| Prince Edward Island.. . . .          | 114      | Canada.. . . .                         | 1             |
| Quebec.. . . .                        | 301      | On public works—                       |               |
| Saskatchewan.. . . .                  | 501      | Canada.. . . .                         | 14            |
| Yukon.. . . .                         | 715      | On railways—                           |               |
| Matches. (See Phosphorus, white.)     |          | Alberta.. . . .                        | 537, 538, 539 |
| Meals, eating of, in workrooms—       |          | British Columbia.. . . .               | 675           |
| British Columbia.. . . .              | 608      | Canada.. . . .                         | 3, 4          |
| Manitoba.. . . .                      | 428      | Manitoba.. . . .                       | 459, 460      |
| Nova Scotia.. . . .                   | 143      | New Brunswick.. . . .                  | 216           |
| Ontario.. . . .                       | 378      | Nova Scotia.. . . .                    | 134, 136, 137 |
| Saskatchewan.. . . .                  | 477      | Ontario.. . . .                        | 361           |
| (See also Time for meals; Food,       |          | Quebec.. . . .                         | 295, 298      |
| etc.)                                 |          | Negligence of employer. (See Com-      |               |
| Mechanics' Lien Act—                  |          | ensation.)                             |               |
| Alberta.. . . .                       | 526      | New Brunswick—                         |               |
| British Columbia.. . . .              | 629      | Bureau of labour.. . . .               | 231           |
| Manitoba.. . . .                      | 442      | Early closing.. . . .                  | 242           |
| New Brunswick.. . . .                 | 219      | Factories.. . . .                      | 232           |
| Nova Scotia.. . . .                   | 205      | Housing.. . . .                        | 241, 243      |
| Ontario.. . . .                       | 330      | Mechanics' liens.. . . .               | 219           |
| Prince Edward Island.. . . .          | 118, 121 | Railways.. . . .                       | 214           |
| Quebec.. . . .                        | 252      | Sunday labour.. . . .                  | 218           |
| Saskatchewan.. . . .                  | 501      | Woodmen's liens.. . . .                | 226           |
| Yukon.. . . .                         | 705      | Workmen's compensation.. . . .         | 244           |
| Mediation. (See Arbitration and       |          | Nova Scotia—                           |               |
| conciliation.)                        |          | Apprenticeship.. . . .                 | 138           |
| Medical attendance—                   |          | Coal mines regulation.. . . .          | 155           |
| Deduction from wages for—             |          | Company doctors.. . . .                | 136           |
| British Columbia.. . . .              | 628      | Early closing.. . . .                  | 148           |
| For employees in camps—               |          | Explosives.. . . .                     | 130           |
| British Columbia.. . . .              | 619      | Factories.. . . .                      | 139           |
| Ontario.. . . .                       | 368, 369 | Fire prevention.. . . .                | 128           |
| Quebec.. . . .                        | 288      | Mechanics' liens.. . . .               | 205           |
| (See also Compensation.)              |          | Metalliferous mines regulation.. . . . | 183           |
| Mercantile establishments. (See In-   |          | Miners' arbitration.. . . .            | 125           |
| spection and regulation of shops.)    |          | Miners' relief societies.. . . .       | 127           |
| Metalliferous mines. (See Inspec-     |          | Railways.. . . .                       | 131           |
| tion and regulation of.)              |          | Steam boilers.. . . .                  | 191           |
| Metalliferous Mines Regulation        |          | Sunday labour.. . . .                  | 139           |
| Act—                                  |          | Technical education.. . . .            | 152           |
| British Columbia.. . . .              | 659      | Woodmen's liens.. . . .                | 180           |
| Nova Scotia.. . . .                   | 183      | Workmen's compensation.. . . .         | 194           |

**N—Con.**

|  | PAGE. |
|--|-------|
| Nova Scotia Steel Company, compensation scheme of— |       |
| Nova Scotia.....                                   | 195   |

**O**

|   |          |
|---|----------|
| Offices. (See Inspection and regulation of.)                                |          |
| Ontario—  |          |
| Apprenticeship.....   | 352      |
| Building trades protection.....   | 371      |
| Employment offices.....   | 416      |
| Explosives.....   | 416      |
| Factories.....  | 372      |
| Housing.....  | 369      |
| Industrial disputes.....  | 347      |
| Master and servant.....   | 345      |
| Mechanics' liens.....   | 330      |
| Mines regulation.....   | 314      |
| Peace preservation on public works.....                                     | 327      |
| Railways.....   | 357      |
| Stationary engineers.....   | 355      |
| Steam boilers.....  | 390      |
| Sunday labour.....  | 396      |
| Vocation training.....  | 393      |
| Wages liability.....  | 343      |
| Woodmen's liens.....  | 337      |
| Workmen's compensation.....   | 396, 417 |
| Ontario Railway and Municipal Board, powers of—                             |          |
| Ontario.....  | 359, 360 |
| Outworkers. (See Compensation; Inspection and regulation of home industry.) |          |

**P**

|  |          |
|--|----------|
| Packing of rails—  |          |
| Alberta.....   | 538      |
| British Columbia.....  | 673      |
| Canada.....  | 9        |
| New Brunswick.....   | 217, 218 |
| Nova Scotia.....   | 134, 135 |
| Ontario.....   | 360      |
| Saskatchewan.....  | 496      |
| Parents, connivance of, at illegal employment of child—          |          |
| Alberta.....   | 563      |
| British Columbia.....  | 614, 678 |
| Manitoba.....  | 434      |
| New Brunswick.....   | 237      |
| Nova Scotia.....   | 147      |
| Ontario.....   | 384      |
| Quebec.....  | 278      |
| Saskatchewan.....  | 482      |
| Yukon.....   | 723      |
| Partial disability. (See Compensation.)                          |          |
| Payment of wages. (See Wages, payment of.)                       |          |
| Peace preservation on public works—                              |          |
| Canada.....  | 87, 88   |
| Ontario.....   | 327-329  |
| Quebec.....  | 262-264  |
| Pensions, employees'—  |          |
| Canada.....  | 81, 82   |
| Pensions, government railway employees'—                         |          |
| Canada.....  | 101-105  |
| Permanent disability. (See Compensation.)                        |          |
| Physicians, employment of, by mining or manufacturing companies— |          |
| Nova Scotia.....   | 137      |
| Phosphorus, white, use of, in matches—                           |          |
| Canada.....  | 108, 109 |

**P—Con.**

|   | PAGE.              |
|---|--------------------|
| Picketing—  |                    |
| British Columbia.....   | 680                |
| Canada.....   | 90                 |
| Pilots—   |                    |
| Apprenticeship of—  |                    |
| Canada.....   | 57, 58, 113        |
| Licensing of—   |                    |
| Canada.....   | 57-62              |
| Quebec District—  |                    |
| Canada.....   | 113                |
| Prevention of accidents and industrial diseases. (See Safety devices, etc.) |                    |
| Prevention of fires. (See Fire prevention.)                                 |                    |
| Prince Edward Island—   |                    |
| Apprenticeship.....   | 115-117            |
| Child labour.....   | 117, 118           |
| Master and servant.....   | 114, 115           |
| Mechanics' liens.....   | 118, 122           |
| Prison labour.....  | 117                |
| Sunday.....   | 114                |
| Wages.....  | 118, 121, 123, 124 |
| Prison labour—  |                    |
| Alberta.....  | 549                |
| British Columbia.....   | 669                |
| Canada.....   | 91                 |
| Manitoba.....   | 473                |
| New Brunswick.....  | 218                |
| Nova Scotia.....  | 128, 152           |
| Ontario.....  | 91, 395            |
| Prince Edward Island.....   | 117                |
| Quebec.....   | 91, 259, 269       |
| Profit-sharing—   |                    |
| British Columbia.....   | 627                |
| Ontario.....  | 345                |
| Protection of alien labourers—  |                    |
| Canada.....   | 107                |
| Protection of employees—  |                    |
| As voters—  |                    |
| Alberta.....  | 549, 550           |
| British Columbia.....   | 603                |
| Canada.....   | 1                  |
| Manitoba.....   | 424                |
| New Brunswick.....  | 214                |
| Nova Scotia.....  | 177                |
| Ontario.....  | 314                |
| Quebec.....   | 254, 255           |
| Saskatchewan.....   | 474                |
| Yukon.....  | 698                |
| In choice of physicians—  |                    |
| Nova Scotia.....  | 137                |
| On buildings, etc.—   |                    |
| Alberta.....  | 585-587            |
| Manitoba.....   | 467-469            |
| Ontario.....  | 371, 372           |
| Quebec.....   | 273                |
| Saskatchewan.....   | 516-518            |
| On electrical construction, etc.—   |                    |
| British Columbia.....   | 603, 604           |
| Ontario.....  | 329, 330           |
| Saskatchewan.....   | 519                |
| On public utilities—  |                    |
| Alberta.....  | 593                |
| Manitoba.....   | 458                |
| (See also Railway employees, protection of; Safety devices, etc.)           |                    |
| Protection of female employees in factories, etc.—                          |                    |
| Canada.....   | 89                 |
| Protection of fishermen—  |                    |
| Canada.....   | 107, 108           |
| Protection of wages. (See Wages, protection of.)                            |                    |
| Provisions, for seamen—   |                    |
| Canada.....   | 41                 |



| P—Con.  |         | R—Con.                            |                    |
|---|---------|-----------------------------------|--------------------|
|   | PAGE.   |                                   | PAGE.              |
| Public utilities, protection of employees on— |         | Railway construction—             |                    |
| Alberta.....                                  | 593     | Canada.....                       | 6, 7, 11, 13       |
| Manitoba.....                                 | 458     | New Brunswick.....                | 215, 216           |
| Public works—                                 |         | Nova Scotia.....                  | 132                |
| Fair wages on—                                |         | Quebec.....                       | 294                |
| British Columbia.....                         | 691     | Railway employees—                |                    |
| Canada.....                                   | 105     | Badges for—                       |                    |
| New Brunswick.....                            | 242     | Alberta.....                      | 537                |
| Nova Scotia.....                              | 179     | British Columbia.....             | 672                |
| Health of employees on—                       |         | Canada.....                       | 3, 9               |
| Canada.....                                   | 86, 87  | Manitoba.....                     | 459                |
| Peace preservation on—                        |         | New Brunswick.....                | 216                |
| Canada.....                                   | 87, 88  | Nova Scotia.....                  | 134                |
| Ontario.....                                  | 327-329 | Ontario.....                      | 361                |
| Quebec.....                                   | 262-264 | Quebec.....                       | 295                |
| Public Works Health Act—                      |         | Saskatchewan.....                 | 495                |
| Canada.....                                   | 86      | Intoxication of—                  |                    |
| Public Works Wages Act—                       |         | Alberta.....                      | 539                |
| British Columbia.....                         | 669     | Canada.....                       | 4, 14              |
| Ontario.....                                  | 343     | Nova Scotia.....                  | 136                |
|   |         | Ontario.....                      | 367                |
|   |         | Quebec.....                       | 295                |
|   |         | Saskatchewan.....                 | 498                |
|   |         | Limitations of actions against—   |                    |
|   |         | Canada.....                       | 3                  |
|   |         | Negligence of—                    |                    |
|   |         | Alberta.....                      | 537, 538, 539, 540 |
|   |         | British Columbia.....             | 675                |
|   |         | Canada.....                       | 3, 4               |
|   |         | Manitoba.....                     | 459, 460           |
|   |         | New Brunswick.....                | 216                |
|   |         | Nova Scotia.....                  | 134, 136           |
|   |         | Ontario.....                      | 361                |
|   |         | Quebec.....                       | 295, 298           |
|   |         | Saskatchewan.....                 | 495, 496           |
|   |         | Qualifications for—               |                    |
|   |         | Alberta.....                      | 537                |
|   |         | British Columbia.....             | 672                |
|   |         | Canada.....                       | 6                  |
|   |         | Manitoba.....                     | 459                |
|   |         | Ontario.....                      | 364                |
|   |         | Saskatchewan.....                 | 500                |
|   |         | Rules for—                        |                    |
|   |         | Alberta.....                      | 537, 538, 539      |
|   |         | British Columbia.....             | 673, 674           |
|   |         | Canada.....                       | 3, 4, 6, 10        |
|   |         | Manitoba.....                     | 459                |
|   |         | New Brunswick.....                | 217                |
|   |         | Nova Scotia.....                  | 133, 134           |
|   |         | Ontario.....                      | 361, 362           |
|   |         | Quebec.....                       | 293, 294, 295      |
|   |         | Saskatchewan.....                 | 498                |
|   |         | Railway subsidies, conditions of— |                    |
|   |         | Ontario.....                      | 365                |
|   |         | Railways Act—                     |                    |
|   |         | Alberta.....                      | 533                |
|   |         | British Columbia.....             | 670                |
|   |         | Canada.....                       | 2, 4               |
|   |         | Manitoba.....                     | 458                |
|   |         | New Brunswick.....                | 215                |
|   |         | Nova Scotia.....                  | 131                |
|   |         | Ontario.....                      | 357                |
|   |         | Quebec.....                       | 293                |
|   |         | Saskatchewan.....                 | 493                |
|   |         | Railways—                         |                    |
|   |         | Actions against—                  |                    |
|   |         | British Columbia.....             | 674                |
|   |         | Canada.....                       | 10                 |
|   |         | Manitoba.....                     | 459                |
|   |         | New Brunswick.....                | 216                |
|   |         | Nova Scotia.....                  | 135-136            |
|   |         | Ontario.....                      | 365                |
|   |         | Quebec.....                       | 295-296            |
|   |         | Saskatchewan.....                 | 497                |
|   |         | Government—                       |                    |
|   |         | Canada.....                       | 24                 |

## P—Con.

## PAGE.

## R—Con.

## PAGE.

## Q

## R

R—Con.

Railways—Con.

|  |              |
|--|--------------|
| Hours of labour on—                      | PAGE.        |
| Ontario.....                             | 364, 366     |
| Inspection of—                           |              |
| Alberta.....                             | 535-536      |
| British Columbia.....                    | 671          |
| Canada.....                              | 7, 8, 12, 13 |
| New Brunswick.....                       | 216          |
| Nova Scotia.....                         | 132, 133     |
| Ontario.....                             | 362, 363     |
| Quebec.....                              | 297          |
| Saskatchewan.....                        | 494          |
| Wires, etc., across—                     |              |
| Alberta.....                             | 524          |
| British Columbia.....                    | 670          |
| Canada.....                              | 7            |
| Saskatchewan.....                        | 493          |
| Relief societies, miners'—               |              |
| Nova Scotia.....                         | 127, 153-155 |
| Reporting of accidents. (See Accidents.) |              |
| Rescue work in mines—                    |              |
| British Columbia.....                    | 657, 658     |
| Riots near mines—                        |              |
| Quebec.....                              | 260          |

S

Safety devices and regulations—

|  |  |
|--|--|
| In factories—                          |  |
| British Columbia.....                  | 609, 610<br>613, 614, 617, 619               |
| Manitoba.....                          | 429, 430                                     |
| New Brunswick.....                     | 233, 234                                     |
| Nova Scotia.....                       | 144, 145                                     |
| Ontario.....                           | 381, 382, 384                                |
| Quebec.....                            | 274, 279-287                                 |
| Saskatchewan.....                      | 479, 480                                     |
| In mines—                              |  |
| Alberta.....                           | 564, 565, 573-577, 578-583                   |
| British Columbia.....                  | 639, 640<br>645, 646, 650-656, 663, 665, 666 |
| Manitoba.....                          | 450-452                                      |
| Ontario.....                           | 316-320                                      |
| Nova Scotia.....                       | 162, 163<br>167-173, 178, 187-189            |
| Quebec.....                            | 260, 261                                     |
| Yukon.....                             | 15, 719-722                                  |
| In offices—                            |  |
| British Columbia.....                  | 617-619                                      |
| Quebec.....                            | 270-272                                      |
| In shops—                              |  |
| Quebec.....                            | 270-272                                      |
| On buildings—                          |  |
| Alberta.....                           | 585-587                                      |
| Manitoba.....                          | 467-469                                      |
| Ontario.....                           | 371, 372                                     |
| Quebec.....                            | 273  |
| Saskatchewan.....                      | 516-518                                      |
| On horse-power machines—               |  |
| Manitoba.....                          | 437  |
| Ontario.....                           | 390  |
| On railways—                           |  |
| Alberta.....                           | 536, 537, 538, 593                           |
| British Columbia.....                  | 672, 673                                     |
| Canada.....                            | 3, 6, 8, 9, 12                               |
| Manitoba.....                          | 458  |
| New Brunswick.....                     | 217, 218                                     |
| Nova Scotia.....                       | 132, 134, 135                                |
| Ontario.....                           | 357-360                                      |
| Quebec.....                            | 294  |
| Saskatchewan.....                      | 494, 495, 496, 499                           |
| (See also Protection of employees.)    |  |
| Sanitation. (See Health of employees.) |  |

S—Con.

PAGE.

|  |               |
|--|---------------|
| Saskatchewan—  |               |
| Building trades protection.....                          | 516           |
| Bureau of labour.....                                    | 513           |
| Coal mines regulation.....                               | 491           |
| Employment offices.....                                  | 519           |
| Factories.....   | 575           |
| Master and servant.....                                  | 501           |
| Mechanics' liens.....                                    | 501           |
| Protection of thresher employees' wages.....             | 510           |
| Railways.....  | 493           |
| Steam boilers.....                                       | 485           |
| Sunday labour.....                                       | 492           |
| Truck system.....  | 521           |
| Woodmen's liens.....                                     | 507           |
| Workmen's compensation.....                              | 513           |
| Scaffolding. (See Protection of employees on buildings.) |               |
| Scale of compensation—                                   |               |
| Alberta.....   | 545, 546      |
| New Brunswick.....                                       | 245, 246      |
| Nova Scotia.....   | 198, 199      |
| Ontario.....   | 402, 403      |
| Quebec.....  | 299, 300      |
| Saskatchewan.....  | 516           |
| Schedule of industrial diseases—                         |               |
| Nova Scotia.....   | 205           |
| Schedule of industries under Workmen's Compensation Act— |               |
| Nova Scotia.....   | 194, 195      |
| Ontario.....   | 413-415       |
| School attendance, compulsory, for children—             |               |
| Alberta.....   | 550, 551      |
| British Columbia.....                                    | 675           |
| Manitoba.....  | 469, 470      |
| New Brunswick.....                                       | 239-241, 242  |
| Nova Scotia.....   | 178, 212, 213 |
| Ontario.....   | 392           |
| Prince Edward Island.....                                | 117, 118      |
| Saskatchewan.....  | 523           |
| Yukon.....   | 724           |
| Seamen—  |               |
| Accidents to—  |               |
| Canada.....  | 42            |
| Accommodation for—                                       |               |
| Canada.....  | 42, 43        |
| Apprenticeship of—                                       |               |
| Canada.....  | 33-51, 58     |
| Certificates of competency—                              |               |
| Canada.....  | 35            |
| Complaints of—   |               |
| Canada.....  | 43            |
| Conditions of employment—                                |               |
| Canada.....  | 28-30, 33-35  |
| Discharge of—  |               |
| Canada.....  | 40, 41, 47    |
| Discipline of—   |               |
| Canada.....  | 29, 30, 49    |
| Employment of—   |               |
| Canada.....  | 32-35         |
| Health of—   |               |
| Canada.....  | 41-43         |
| Medical attendance for—                                  |               |
| Canada.....  | 42, 55-57     |
| Offences against—  |               |
| Canada.....  | 45-49         |
| Offences of—   |               |
| Canada.....  | 49-52         |
| Penalty for enticing and harbouring deserters—           |               |
| Canada.....  | 52            |
| Procedure in court concerning—                           |               |
| Canada.....  | 52, 53, 54    |
| Protection of from imposition—                           |               |
| Canada.....  | 44            |
| Provisions for—  |               |
| Canada.....  | 41-43         |

| S—Con.   | PAGE.              |
|--|--------------------|
| Seamen—Con.  |                    |
| Report of changes in crew—   |                    |
| Canada.....  | 35                 |
| Sick and distressed—   |                    |
| Canada.....  | 55-57              |
| Wages of—  |                    |
| Canada.....  | 35-40, 44          |
| Seats for female employees—  |                    |
| British Columbia.....  | 678                |
| Manitoba.....  | 462                |
| Nova Scotia.....   | 179                |
| Ontario.....   | 377                |
| Quebec.....  | 271                |
| Secret Commissions Act—  |                    |
| Canada.....  | 106                |
| Shipping Act—  |                    |
| Canada.....  | 30                 |
| Semi-monthly payment of wages.<br>(See Wages, etc.)                    |                    |
| Shipping casualties, investigations<br>into—                           |                    |
| Canada.....  | 77-80              |
| Shipping masters, duties of—   |                    |
| Canada.....  | 31-33              |
| Shops. (See Inspection and regula-<br>tion of.)                        |                    |
| Shops Regulation Act—  |                    |
| British Columbia.....  | 675                |
| Manitoba.....  | 460                |
| Sick and distressed mariners, provi-<br>sions in aid of—               |                    |
| Canada.....  | 55, 56, 57         |
| Sick Mariners Fund—  |                    |
| Canada.....  | 55, 56             |
| Stationary engineers. (See Exam-<br>ination and licensing of workmen.) |                    |
| Statistics. (See Labour statistics.)                                   |                    |
| Steamboat inspection—  |                    |
| Canada.....  | 63-75              |
| Steam Boiler Act—  |                    |
| Alberta.....   | 552                |
| British Columbia.....  | 594                |
| Manitoba.....  | 462                |
| Nova Scotia.....   | 191                |
| Ontario.....   | 390                |
| Saskatchewan.....  | 485                |
| Yukon.....   | 693                |
| Steam boilers. (See Inspection and<br>regulation of boilers.)          |                    |
| Street railway employees—  |                    |
| Conveniences for—  |                    |
| Ontario.....   | 364                |
| Hours of labour of—  |                    |
| Nova Scotia.....   | 191                |
| Ontario.....   | 364, 366           |
| Protection of—   |                    |
| Nova Scotia.....   | 179                |
| Ontario.....   | 359                |
| Quebec.....  | 295                |
| Saskatchewan.....  | 497                |
| Qualifications for—  |                    |
| Nova Scotia.....   | 179                |
| Ontario.....   | 364                |
| Prince Edward Island.....  | 123                |
| Seats for—   |                    |
| Nova Scotia.....   | 179                |
| Strikes and lockouts. (See Arbitra-<br>tion and conciliation.)         |                    |
| Sunday labour—   |                    |
| Alberta.....   | 524, 540           |
| British Columbia.....  | 679, 680           |
| Canada.....  | 5, 92, 93          |
| Manitoba.....  | 438, 453           |
| New Brunswick.....   | 218, 219           |
| Nova Scotia.....   | 128, 139, 191      |
| Ontario.....   | 363, 364, 384, 396 |
| Prince Edward Island.....  | 114                |

| S—Con.  | PAGE.         |
|---|---------------|
| Sunday labour—Con.  |               |
| Quebec.....   | 292           |
| Saskatchewan.....   | 499, 501, 522 |
| (See also Hours of labour.)   |               |
| Sunday street cars—   |               |
| Alberta.....  | 540           |
| Canada.....   | 5, 6          |
| Manitoba.....   | 453           |
| Nova Scotia.....  | 128, 191      |
| Ontario.....  | 363, 364      |
| Saskatchewan.....   | 499, 501, 521 |
| Sunday trains—  |               |
| Canada.....   | 5, 6          |
| Sweating system. (See Inspection<br>and regulation of home industry.) |               |

## T

|  |          |
|--|----------|
| Taxes of employees. (See Liability<br>of employers for.)                         |          |
| Technical Education Act—   |          |
| Nova Scotia.....   | 152      |
| Ontario.....   | 393      |
| Quebec.....  | 305      |
| Temporary disability. (See Com-<br>pensation.)                                   |          |
| Tenement manufactures. (See In-<br>spection and regulation of home<br>industry.) |          |
| Theft by employees—  |          |
| Canada.....  | 89, 91   |
| Thresher Employees' Act—   |          |
| Saskatchewan.....  | 510      |
| Thresher Employees' Lien Act—  |          |
| Alberta.....   | 587      |
| Thresher employees, protection of<br>wages of—                                   |          |
| Alberta.....   | 589, 590 |
| Manitoba.....  | 462, 463 |
| Saskatchewan.....  | 510-513  |
| Time for meals—  |          |
| British Columbia.....  | 608, 678 |
| Manitoba.....  | 428      |
| New Brunswick.....   | 232, 233 |
| Nova Scotia.....   | 142, 143 |
| Ontario.....   | 377      |
| Quebec.....  | 275      |
| Saskatchewan.....  | 476      |
| Time to vote—  |          |
| Alberta.....   | 549      |
| British Columbia.....  | 603      |
| Canada.....  | 1        |
| Manitoba.....  | 424      |
| Ontario.....   | 314      |
| Saskatchewan.....  | 474      |
| Total disability. (See Compensa-<br>tion.)                                       |          |
| Trade disputes. (See Arbitration<br>and conciliation.)                           |          |
| Trade Disputes Act—  |          |
| British Columbia.....  | 622      |
| Nova Scotia.....   | 150      |
| Ontario.....   | 347      |
| Quebec.....  | 265      |
| Trade unions. (See Labour organi-<br>zations.)                                   |          |
| Trade Unions Act—  |          |
| Canada.....  | 82       |
| Truck system—  |          |
| British Columbia.....  | 681-683  |
| Saskatchewan.....  | 520, 521 |

V

PAGE.

|  |                         |
|--|-------------------------|
| Ventilation. (See Health of employees.)                                      |                         |
| Vocational training—   |                         |
| Nova Scotia.....   | 152, 153                |
| Ontario.....   | 392-395                 |
| Quebec.....  | 264, 265, 292, 305, 308 |
| Saskatchewan.....  | 523                     |
| Voters, protection of employees as. (See Protection of employees as voters.) |                         |
| Voting, time for. (See Time to vote.)  |                         |
| Voyageurs, employment of—  |                         |
| Quebec.....  | 303, 304                |

W

|   |                    |
|---|--------------------|
| Wages—                                    |                    |
| As preferred claims in assignments, etc.— |                    |
| Alberta.....                              | 525, 533, 550      |
| British Columbia.....                     | 594, 602, 603, 605 |
| Canada.....                               | 87                 |
| Manitoba.....                             | 418, 424, 463      |
| New Brunswick.....                        | 230, 231           |
| Nova Scotia.....                          | 139, 150           |
| Ontario.....                              | 344, 356           |
| Prince Edward Island.....                 | 123, 124           |
| Saskatchewan.....                         | 492, 500, 501      |
| Yukon.....                                | 697, 698, 724      |
| Assignment of—                            |                    |
| Manitoba.....                             | 418                |
| Ontario.....                              | 344                |
| Cashing of cheques for, in hotels, etc.—  |                    |
| Alberta.....                              | 524                |
| Ontario.....                              | 368                |
| Quebec.....                               | 256                |
| Saskatchewan.....                         | 521                |
| Deceased workmen's—                       |                    |
| British Columbia.....                     | 688                |
| Deductions from—                          |                    |
| British Columbia.....                     | 682                |
| Manitoba.....                             | 422                |
| Nova Scotia.....                          | 162, 184           |
| Ontario.....                              | 399                |
| Quebec.....                               | 304                |
| Earnings of married women—                |                    |
| British Columbia.....                     | 626                |
| Manitoba.....                             | 439                |
| New Brunswick.....                        | 214                |
| Northwest Territories.....                | 14                 |
| Nova Scotia.....                          | 137                |
| Ontario.....                              | 355                |
| Prince Edward Island.....                 | 123                |
| Saskatchewan.....                         | 491                |
| Yukon.....                                | 15                 |
| Garnishment, etc., of—                    |                    |
| Manitoba.....                             | 437, 463           |
| New Brunswick.....                        | 219                |
| Ontario.....                              | 344                |
| Prince Edward Island.....                 | 121                |
| Quebec.....                               | 254                |
| Yukon.....                                | 704                |
| Legal proceedings to recover—             |                    |
| Ontario.....                              | 346, 347           |
| Liability of directors for—               |                    |
| Alberta.....                              | 525                |
| Canada.....                               | 15                 |
| Manitoba.....                             | 423, 452           |
| Quebec.....                               | 293, 298           |
| Saskatchewan.....                         | 521                |
| Non-payment of—                           |                    |
| British Columbia.....                     | 627, 628           |
| Ontario.....                              | 345, 346           |
| Seamen's—                                 |                    |
| Canada.....                               | 35-41, 44          |

W—Con

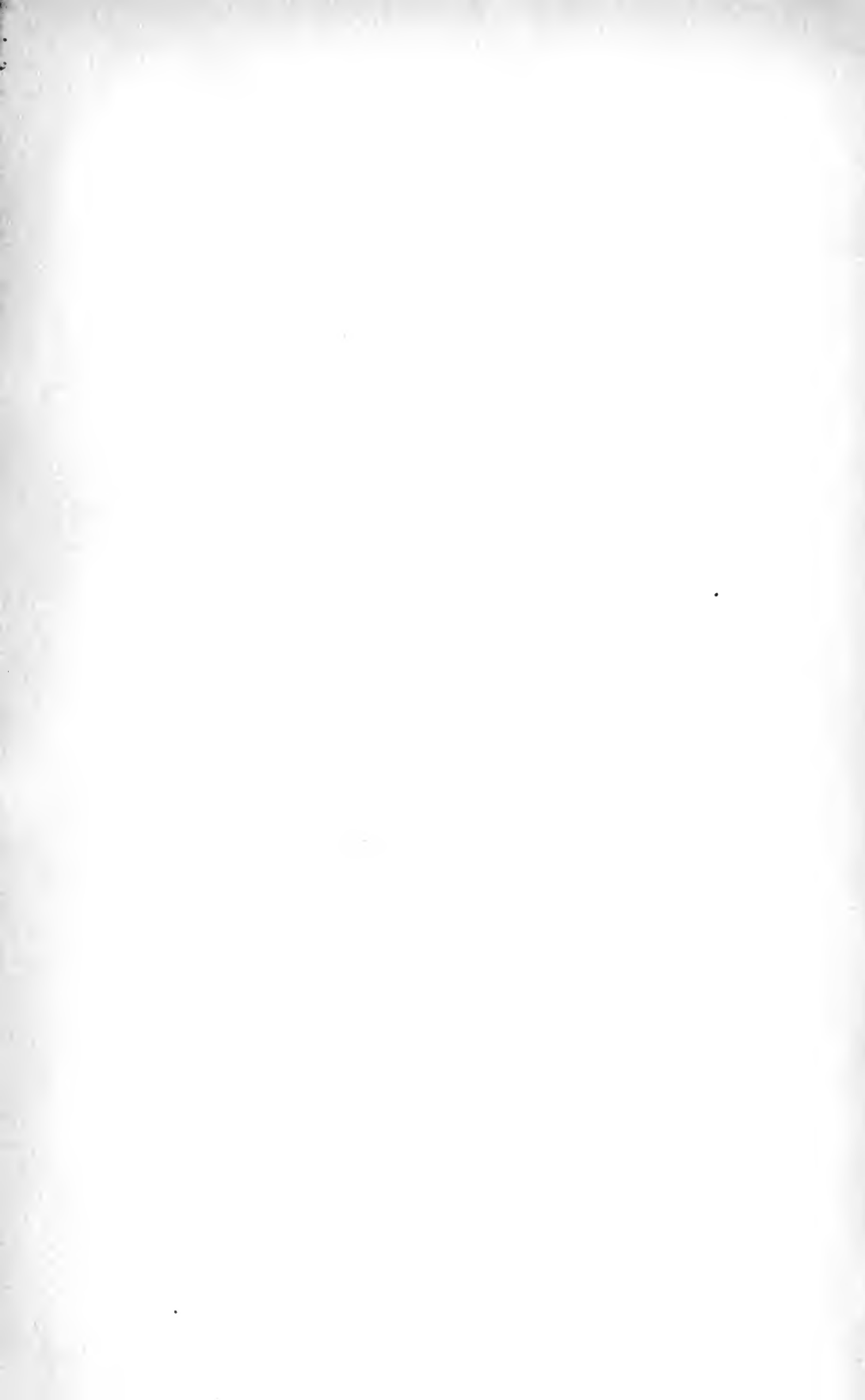
PAGE.

|                                       |          |
|---------------------------------------|----------|
| Wages— <i>con.</i>                    |          |
| Suits for, by minors—                 |          |
| Alberta.....                          | 524      |
| British Columbia.....                 | 602      |
| Manitoba.....                         | 424      |
| New Brunswick.....                    | 219      |
| Ontario.....                          | 330      |
| Prince Edward Island.....             | 118      |
| Quebec.....                           | 250      |
| Saskatchewan.....                     | 492      |
| Yukon.....                            | 704      |
| Suits for, by workmen—                |          |
| Ontario.....                          | 330      |
| (See also Fair wages, liens, etc.)    |          |
| Wages Liability Act—                  |          |
| Canada.....                           | 27       |
| Ontario.....                          | 343      |
| Wages, payment of—                    |          |
| Due deceased workmen—                 |          |
| British Columbia.....                 | 688, 689 |
| In coal mines—                        |          |
| Alberta.....                          | 568      |
| British Columbia.....                 | 637, 638 |
| Nova Scotia.....                      | 159, 169 |
| In hotels, etc.—                      |          |
| Alberta.....                          | 524, 568 |
| British Columbia.....                 | 637, 662 |
| Manitoba.....                         | 438      |
| Nova Scotia.....                      | 159, 184 |
| Ontario.....                          | 324      |
| Saskatchewan.....                     | 521      |
| Yukon.....                            | 719      |
| On building contracts—                |          |
| Quebec.....                           | 251      |
| On chartered companies' works—        |          |
| Canada.....                           | 28       |
| Ontario.....                          | 343      |
| On National Transcontinental Railway— |          |
| Canada.....                           | 105      |
| On public works—                      |          |
| British Columbia.....                 | 669, 670 |
| Canada.....                           | 27       |
| Ontario.....                          | 343      |
| On subsidized works—                  |          |
| Canada.....                           | 27       |
| Ontario.....                          | 343      |
| Semi-monthly—                         |          |
| Alberta.....                          | 568      |
| (See also Truck system.)              |          |
| Wages, protection of—                 |          |
| On building contracts—                |          |
| Manitoba.....                         | 419, 421 |
| Quebec.....                           | 251      |
| On public works, etc.—                |          |
| British Columbia.....                 | 669, 670 |
| Canada.....                           | 27, 28   |
| Ontario.....                          | 343, 344 |
| On railways—                          |          |
| Canada.....                           | 105      |
| Quebec.....                           | 296      |
| Thresher employees—                   |          |
| Alberta.....                          | 589, 590 |
| Manitoba.....                         | 462, 463 |
| Saskatchewan.....                     | 510-513  |
| Weapons. (See Peace preservation.)    |          |
| White Phosphorus Matches Act—         |          |
| Canada.....                           | 108      |
| Women, employment of—                 |          |
| By Orientals—                         |          |
| Manitoba.....                         | 418      |
| Ontario.....                          | 377      |
| Saskatchewan.....                     | 516      |
| In bar rooms, etc.—                   |          |
| Alberta.....                          | 524      |
| Manitoba.....                         | 438      |
| Quebec.....                           | 256      |
| Saskatchewan.....                     | 521      |
| Yukon.....                            | 715      |

| W—Con.                            |                         | W—Con.                            |       |
|-----------------------------------|-------------------------|-----------------------------------|-------|
|                                   | PAGE.                   |                                   | PAGE. |
| Women, employment of— <i>Con.</i> |                         | Woodmen's Lien Act— <i>Con.</i>   |       |
| In factories—                     |                         | Ontario.. . . .                   | 337   |
| British Columbia.. . . .          | 607-609, 613, 614       | Quebec.. . . .                    | 251   |
| Manitoba.. . . .                  | 428, 429, 433           | Saskatchewan.. . . .              | 507   |
| New Brunswick.. . . .             | 232, 233                | Yukon.. . . .                     | 712   |
| Nova Scotia.. . . .               | 141, 142, 143, 144, 145 | Workmen's compensation. (See Com- |       |
| Ontario.. . . .                   | 374, 375, 381           | pensation.)                       |       |
| Quebec.. . . .                    | 275, 284                | Workmen's Compensation Act—       |       |
| Saskatchewan.. . . .              | 476, 477, 480           | Alberta.. . . .                   | 540   |
| In mines—                         |                         | British Columbia.. . . .          | 683   |
| Alberta.. . . .                   | 563                     | Manitoba.. . . .                  | 467   |
| British Columbia.. . . .          | 636, 662, 665           | New Brunswick.. . . .             | 244   |
| Ontario.. . . .                   | 315                     | Nova Scotia.. . . .               | 194   |
| Quebec.. . . .                    | 260                     | Ontario.. . . .                   | 396   |
| In shops—                         |                         | Quebec.. . . .                    | 299   |
| British Columbia.. . . .          | 678, 679                | Saskatchewan.. . . .              | 513   |
| Manitoba.. . . .                  | 462                     | Workmen's Compensation Board.     |       |
| Nova Scotia.. . . .               | 179                     | (See Compensation Board.)         |       |
| Ontario.. . . .                   | 374, 375                | Wrecks, investigations of—        |       |
| Women, hours of labour of—        |                         | Canada.. . . .                    | 77-80 |
| British Columbia.. . . .          | 603, 609, 678           |                                   |       |
| New Brunswick.. . . .             | 232, 233                |                                   |       |
| Nova Scotia.. . . .               | 142, 143                |                                   |       |
| Ontario.. . . .                   | 377, 378                |                                   |       |
| Quebec.. . . .                    | 275                     |                                   |       |
| Woodmen's Lien Act—               |                         |                                   |       |
| Alberta.. . . .                   | 590                     |                                   |       |
| British Columbia.. . . .          | 684                     |                                   |       |
| Manitoba.. . . .                  | 464                     |                                   |       |
| New Brunswick.. . . .             | 226                     |                                   |       |
| Nova Scotia.. . . .               | 180                     |                                   |       |

## Y

|                              |     |
|------------------------------|-----|
| Yukon—                       |     |
| Employers' liability.. . . . | 698 |
| Explosives.. . . .           | 702 |
| Master and servant.. . . .   | 715 |
| Mechanics' liens.. . . .     | 705 |
| Miners' liens.. . . .        | 709 |
| Mines regulation.. . . .     | 710 |
| Steam boilers.. . . .        | 693 |
| Woodmen's liens.. . . .      | 712 |











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